

CORRIGENDUM
for Deposition of Scott Brown
Taken August 10, 2000

PAGE	LINE	CHANGE/REASON
12	4	Strike "October 30 th " and replace with "December 30 th "
13	1	Strike "and take an affidavit to suit his needs." and substitute "and provide testimony by way of declaration."
28	17	"Always" I am always trying sell Williamson Printing something, not Mr. Falk.
35	20	"Yes" Graphic Equipment Southwest, Inc. sold Komori Presses while I was Service Manager, I was not in sales, nor sold Komori Presses to Williamson Printing.
40	12	Subsequent to June 1994, I obtained an understanding that Williamson did not use flexography at that time.
41	14	"No", I never saw them run it commercially. However, I did see Williamson run WIMS experimentally in 1993 at Graphic Equipment Southwest, Inc.
44	20	They do have a two color used Heidelberg press they bought from a third party <u>c.</u> 1979
45	5	Strike "Howard Byrd" and replace with "John Bird"
45	23	Strike "John Byrd" and replace with "John Bird"
48	13	As of the time that I joined Heidelberg in 1994, I had never seen flexographic printing on the first unit of an offset press. I have seen a number of press manufacturers such as Roland 700, Heidelberg C0102L, and Komori Lithrone, that utilized flexography in the coating towers with anilox rollers.
49	21	Strike "1994" and replace with "1993 at the coating tower on end-of-press"
65	18	"Flexography--"
65	20	Strike "And lithography and lithographic plate and a flexographic plate for the same thing. They put an image on a blanket." and replace with "A flexographic plate coats or prints directly on the paper"
66	24	Strike "process" and replace with "arts"

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PAGE	LINE	CHANGE REASON
74	20	Strike "drip" and replace with "equipment" Strike "inner depth" and replace with "inter deck"
74	24	"Jesse was contemplating how to address the drying problems with putting down ink/coatings in the first units and was exploring high velocity air, UV, and other inter-station equipment."
79	21	"There was a Heidelberg CD 1026LYL with chambered doctor blade/anilox roller systems."
85	19	"There would have been no purpose in gathering BASF information other than for printing with the flexographic plates in the first units of a press."
100	19	Strike "The" and replace with "Bill and Jesse's"
102	23	Strike "Doggren" and replace with "Dahlgren"
102	24	Strike "Rykaline" and replace with "Rykographics"
106	18	"What Bill and Jesse wanted was one pass testing of lithographic/flexographic process. However, we only had the ability to test on a machine with the chambered doctor/anilox system at the end of that press."
108	20	"It was one pass utilizing flexographic and lithographic processes."
117	18	"Conversations I had in the summer of 1994."
118	14	"The press that we tested in Germany had an infrared and hot air drying system that works very well."
120	4	"Williamson was also exploring the options for drying from several other manufacturers."

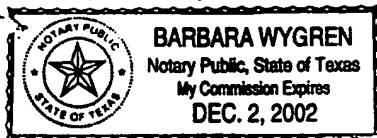
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I, Scott Brown, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

Scott Brown
Scott Brown

STATE OF TEXAS)
)
COUNTY OF DALLAS)

Subscribed and sworn to before me by the said witness, Scott Brown, this 22nd day of September, 2000, by



(seal)

Barbara Wygren
Notary Public, the State of Texas

09315796-0931604

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PRINTING RESEARCH, INC.	X	
AND HOWARD W. DeMOORE,	X	
Plaintiffs,	X	
	X	
VS	X	CIVIL ACTION NUMBER
	X	3-99-CV1154-M
WILLIAMSON PRINTING	X	
CORPORATION, BILL L. DAVIS	X	
AND JESSE S. WILLIAMSON,	X	
Defendants.	X	

ORAL DEPOSITION

OF

SCOTT BROWN

August 10, 2000

ANSWERS AND DEPOSITION OF SCOTT BROWN, produced
as a witness at the instance of the Plaintiffs, taken in
the above-styled and numbered cause on the 10th day of
August, 2000, at 9:15 o'clock a.m., before Anita K.
Spurger, a Certified Shorthand Reporter in and for the
State of Texas, at the offices of Locke, Liddell & Sapp,
located at 2200 Ross Avenue, Suite 2200, in the City of
Dallas, County of Dallas, and State of Texas.

A P P E A R A N C E S

MR. BILL HARRIS
MR. STEVE WILSON
Locke, Liddell & Sapp
2200 Ross Avenue
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Dallas, Texas 75201

- AND -

MR. MARTIN J. SWEENEY
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APPEARING FOR THE PLAINTIFFS

MR. JOHN P. PINKERTON
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Dallas, Texas 75201

- AND -

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APPEARING FOR THE DEFENDANTS

ALSO PRESENT: Mr. Howard W. DeMoore,
Mr. Dave Douglas,
Mr. Bill L. Davis

I N D E X

WITNESS: SCOTT BROWN

PAGE

Examination by Mr. Harris

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E X H I B I T S

NUMBER

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P R O C E E D I N G S

MR. HARRIS: I think our agreement is to go under the Federal Rules. And I believe Mr. Pinkerton wanted it reiterated that -- and I agree -- that objections except as to the form of the question are reserved until the trial.

MR. PINKERTON: That's the agreement.

SCOTT BROWN,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. HARRIS:

Q. Mr. Brown, as I told you very quickly as we met a minute ago, I'm Bill Harris, and I'm the lawyer in this particular matter or one of them for the plaintiff. And the plaintiff in the case, I believe you know who that is, don't you?

A. Yes, sir.

Q. Who is it?

A. That would be Printing Research.

Q. And I believe and Howard DeMoore, but that is correct.

A. And Howard DeMoore.

Q. And the defendant, I believe you know who that is, do you not?

A. Yes.

1 Q. And who is it?

2 A. Williamson Printing. The subpoena names Bill
3 Davis and Jesse Williamson.

4 Q. And I gather you have brought the subpoena
5 along with you --

6 A. Yes.

7 Q. -- in this case. I would like to mark it as
8 exhibit --

9 MR. HARRIS: What are we to? 11 or what?

10 MR. PINKERTON: Well, did you want -- I
11 thought I understood you were going to start over on
12 each one, Bill.

13 MR. HARRIS: That's what I'd prefer to do.

14 MR. PINKERTON: That's fine. Brown 1?

15 MR. HARRIS: We'll make this Brown
16 Exhibit 1, then.

17 (Exhibit 1 marked)

18 Q. (By Mr. Harris) And you are responding today
19 to that subpoena. That's correct, is it not?

20 A. Yes.

21 Q. And did you notice in the subpoena that there
22 were some documents that were referred to? And my
23 question to you is, looking at the subpoena and you'll
24 find that there are some documents mentioned, and I
25 would like for you to tell me whether or not you have

1 any of those documents.

2 A. There -- yeah. There are several documents and
3 copies are attached to the subpoena.

4 Q. Are those all of the documents that you have?

5 A. I had some of the original documents. These
6 are copies. Is that what you are asking?

7 Q. Well, let's take a look at -- there's a 1 and a
8 2 and a 3 in the so-called Plaintiffs' Notice of Oral
9 Deposition of Scott Brown. Do you see those?

10 A. Yes.

11 MR. WILSON: No. He's looking at the
12 wrong place. You're looking at your statement -- the
13 notice there. There you go.

14 Q. (By Mr. Harris) Do you have any documents such
15 as Number 1?

16 A. I have a copy of my declaration of my
17 deposition, yes.

18 Q. You do mean your declaration, don't you?
19 You're not referring --

20 A. Okay, declaration.

21 Q. You're not referring -- you said deposition.
22 You don't mean that, do you?

23 A. No. Declaration --

24 Q. Okay.

25 A. -- it says here.

1 Q. What else under Number 1 do you have?

2 A. These exhibits are attached that are mentioned
3 in Paragraphs 2 through 6. Copies of these are attached
4 to the subpoena.

5 Q. And when you say "2 through 6," you're talking
6 now about in your declaration, are you not?

7 A. Yes. It's that --

8 Q. And you have nothing else that corresponds to
9 the request of Paragraph 1?

10 A. No.

11 Q. Would you look at Paragraph 2 on the next page,
12 please. Read it carefully, please.

13 (Conference between Mr. Brown and
14 Mr. Pinkerton)

15 A. I would refer to the attachments.

16 Q. (By Mr. Harris) Well, do you have any others
17 that aren't attached, is the question.

18 A. No.

19 Q. Are you sure?

20 A. Yes.

21 Q. Now, are you answering with respect to Number 2
22 or Number 1?

23 A. Number 1 and 2, but I was specifically
24 responding to Number 2 -- Number 2.

25 Q. In your files at the company, do you have

1 documents for 1, 2, or for that matter, 3, which I'll
2 ask you to read, too, so we can talk about them all at
3 the same time.

4 A. They're all in the attachments, all the
5 documents.

6 Q. And there's nothing else in -- there's nothing
7 else in the files of the company you're aware of that
8 correspond to the requests of 1, 2, and 3?

9 A. No, not to my knowledge.

10 Q. How did you come to take the declaration that
11 is an exhibit to Brown 1?

12 MR. PINKERTON: I just want to object to
13 the form. He's probably not used to the terminology,
14 "take a declaration." He executed -- he made the
15 declaration. Just object to the form of the question.
16 Just make sure he understands it, Bill.

17 Q. (By Mr. Harris) I gather you do not understand
18 the question. Is it true that you do not understand
19 that question?

20 A. Yes.

21 Q. Okay. Well, I will try to ask it again.
22 You've got a piece of paper attached there that's, I
23 believe, an exhibit -- several pieces of paper that I
24 believe is an exhibit to your so-called declaration.
25 And you have the declaration itself. Agreed?

1 A. Yes.

2 Q. And you, quote, took that declaration, that is,
3 signed it, did you not?

4 A. Yes.

5 Q. And you do avow that it is your declaration?

6 A. Yes.

7 MR. PINKERTON: Yeah. And for the record,
8 Bill, the declaration is marked Exhibit A to Exhibit 1.

9 MR. HARRIS: For your information, we
10 don't have any such marks on any of the attachments.
11 We were not furnished them.

12 MR. PINKERTON: Oh, okay.

13 MR. WILSON: You gentlemen are talking
14 about two different things.

15 MR. PINKERTON: Well, okay. Let's talk
16 about Exhibit 1.

17 MR. WILSON: No. Bill was saying that his
18 declaration refers to Exhibits A through H, but when you
19 produced his declaration to us, there's no tabs. So you
20 can't really tell what attachments are the A through H.
21 You can tell this is A through H, but you can't tell
22 which one's A and which one's H.

23 MR. PINKERTON: Oh, okay.

24 MR. WILSON: And you, Mr. Pinkerton, are
25 talking about the Exhibit A stamp that we put on his

1 declaration as part of the notice.

2 MR. PINKERTON: Yeah. Bill, you were
3 asking him about the declaration. And I just wanted to
4 make -- state for the record that it is Exhibit A to
5 Exhibit 1. Just so we're clear there.

6 MR. HARRIS: Yes. And I think we might be
7 better off if we have a separate declaration so we don't
8 have to have an attached subpoena and notice.

9 MR. PINKERTON: I agree with that.

10 MR. HARRIS: So I'm going to ask that a
11 separate declaration by Mr. Brown be attached -- I'm
12 sorry -- be marked. And it will be 2, Exhibit 2.

13 (Mr. Wilson exits proceedings)

14 MR. HARRIS: Where did he go?

15 MR. PINKERTON: He went to make a copy.
16 You can go ahead with the witness.

17 MR. HARRIS: Why don't I just go right on
18 ahead, then. Later on, we'll put that in.

19 Q. (By Mr. Harris) Anyway, what I was trying to
20 find out, and I think I've gotten what I could, if there
21 are any other documents that you're aware of that relate
22 to this matter other than the --

23 A. No.

24 Q. -- ones that you had attached?

25 A. No, there isn't.

1 Q. And have any other documents come to your
2 attention since you took this declaration that relate
3 to this matter?

4 A. No.

5 MR. PINKERTON: Bill, could we break for
6 one second? I'm going to call my office and have them
7 send over the original so that we'll have the tabs and
8 know --

9 MR. HARRIS: That's probably a good idea.
10 (Recess taken)

11 MR. HARRIS: Now, we have only marked
12 Brown 1 so far; is that true?

13 MR. PINKERTON: Right.

14 MR. HARRIS: Mark Brown 2 as the
15 declaration of Scott Brown.

16 (Exhibit 2 marked)

17 Q. (By Mr. Harris) Okay. I'm not sure you have 2
18 over there. Do you?

19 MR. WILSON: Yeah. There's 2 for him.

20 MR. PINKERTON: Scott, let's trade you
21 this one for this one.

22 Q. (By Mr. Harris) Now that we've got a single
23 unit, which has been marked as Brown 2, Exhibit 2, can
24 you verify that as the declaration that you took?

25 A. Yes, it is.

1 Q. And when did you take the declaration? I
2 rather assume the date at the end is right, but I'd like
3 to have it verified.

4 A. December -- October 30th. I can't read this --
5 the copy very well.

6 Q. You're not exactly sure, huh, when you took
7 it?

8 A. Does anyone have the original?

9 MR. PINKERTON: It's coming over.

10 MR. HARRIS: It is a little fuzzy.

11 MR. PINKERTON: Yeah. The copy's kind of
12 bad.

13 Q. (By Mr. Harris) As to this affidavit or
14 declaration -- which do you prefer to call it?
15 Declaration?

16 MR. PINKERTON: December 30th.

17 A. That would be fine.

18 Q. (By Mr. Harris) Okay. How did you get
19 involved in the taking of it?

20 A. I was contacted by Bob Falk.

21 Q. Is that Robert Falk, Esquire?

22 THE WITNESS: Is that you?

23 MR. FALK: That's me.

24 Q. (By Mr. Harris) I see.

25 A. And he asked if I would meet with him about the

1 subject and take an affidavit to suit his needs.

2 Q. Did someone talk with you before that about the
3 possibility of taking the -- I believe you called an
4 affidavit? Didn't you call it affidavit?

5 A. Yeah.

6 Q. Okay.

7 A. Yes.

8 Q. Well, we'll call it both affidavit and
9 declaration, then.

10 A. Yes. Bill Davis mentioned to me that there's
11 a possibility that I may be asked to answer some
12 questions.

13 Q. And after Bill Davis asked you that and before
14 you took the affidavit, did you speak to any persons
15 about the matter?

16 A. Yes.

17 Q. What persons?

18 A. I spoke to my regional manager, Lowell
19 Gilbertson and spoke to our legal counsel --
20 Heidelberg's legal counsel, Susan Nofi.

21 Q. In the United States?

22 A. Yes. And that would be all.

23 Q. Did you discuss the substance of what became
24 the affidavit of declaration with them?

25 A. After it was taken?

1 Q. Before it was taken.

2 A. Are you asking did I tell them -- ask -- tell
3 them what it referred to?

4 Q. Yes.

5 A. Yes.

6 Q. Did you tell them in the words -- in other
7 words, but did you tell them what's in this declaration
8 now? In the affidavit that was taken by you, did you
9 tell them what contains -- what is contained in it?

10 MR. PINKERTON: I'm going to object.
11 Counsel, Mr. Brown's here. He's not represented by
12 counsel. And you're asking him about attorney-client
13 privileged communications. I think out of fairness to
14 the witness, you ought to advise him that he's got the
15 right to claim a privilege with respect to those -- or
16 somebody ought to advise him --

17 MR. HARRIS: You seem to be.

18 MR. PINKERTON: Well, you know, I don't
19 mean to be taking on that burden, but out of fairness,
20 do you think it's appropriate to advise him that there
21 is an attorney-client --

22 MR. HARRIS: I'm not trying to get any
23 attorney-client information.

24 MR. PINKERTON: You're asking him about
25 his communications with his attorney.

1 MR. HARRIS: I'm asking him merely if he
2 recited to his boss and attorney the information that's
3 in the affidavit.

4 MR. PINKERTON: Which is asking him for
5 communications with his attorney.

6 MR. HARRIS: No, but his boss was there.
7 He's a third party as far as this matter's concerned.
8 You're not talking about any privilege at all.

9 MR. PINKERTON: I think it is privileged
10 communication in spite of the boss being there.

11 MR. HARRIS: Are you going to claim
12 privilege for him?

13 MR. PINKERTON: No. I just -- I think
14 it's appropriate that Mr. Brown know that there is
15 such a thing in this country that's kind of a sacred
16 privilege and that is attorney-client privilege.

17 MR. HARRIS: There is a sacred thing also
18 in this country called the truth.

19 MR. PINKERTON: That's right.

20 MR. HARRIS: And that's all I'm asking
21 for.

22 MR. PINKERTON: And the law has recognized
23 that the truth can be had separate and apart from asking
24 for attorney-client communications. And we're here to
25 get the truth today. And we can get the truth without

1 having to get to a communication with his attorney.

2 MR. HARRIS: Let's put it this way.

3 Q. (By Mr. Harris) You had a communication with
4 your boss, did you not?

5 A. Yes.

6 Q. What did he say and what did you say?

7 MR. PINKERTON: Was that in the presence
8 of counsel?

9 THE WITNESS: No.

10 MR. PINKERTON: Okay. It could still be
11 attorney-client privilege.

12 MR. HARRIS: Oh, come on, Mr. Pinkerton.

13 MR. PINKERTON: It could be.

14 MR. HARRIS: It could be, but you are --

15 MR. PINKERTON: It could be. I'm just --
16 I don't know. It's too bad that he's not represented by
17 counsel.

18 THE WITNESS: Well, I'd like to ask a
19 question, and I'd like Mr. Pinkerton's opinion.

20 Should I -- should we postpone this event
21 until I would have representation here?

22 MR. PINKERTON: That's entirely up to you,
23 Mr. Brown. That's not my call. I'm just advising or
24 stating on the record some very basic fundamental legal
25 principles here. And I don't want to see them violated,

1 and I don't think Mr. Harris does either really.

2 MR. HARRIS: No, not at all. I want to
3 know what you said to your boss and what you said to
4 him. I backed off on the question of what you said to
5 the lawyer. Whether I should or not under these
6 circumstances, I backed off on that.

7 MR. PINKERTON: Now --

8 MR. HARRIS: And so we're down now to what
9 was said to the boss.

10 MR. PINKERTON: Did the boss --

11 MR. HARRIS: An objection could be made or
12 you could make one and still go ahead and tell me. And
13 then, at trial, if for some reason the matter should be
14 broached, well, it could be struck if the judge thought
15 that it was attorney-client information. Also, your
16 statements for what -- whatever protection they can get
17 can be put under the protective order in this case.

18 MR. PINKERTON: Well, a protective order
19 doesn't really solve that issue, in my opinion.

20 MR. HARRIS: Well, you've got a lot of
21 opinions about this, Mr. Pinkerton, for somebody's
22 that's not your witness.

23 MR. PINKERTON: Well, he's not my witness,
24 and I don't represent him. But he's entitled to know
25 what the law is.

1 Did --

2 MR. HARRIS: Mr. Pinkerton, do you know
3 what the law is?

4 MR. PINKERTON: Well, I hope that I know
5 some of it.

6 MR. HARRIS: Well, I don't doubt that you
7 know some of it. But you sounded like you know what,
8 quote, the law, closed quote, is.

9 MR. PINKERTON: Well, I don't think there
10 is any reason for you and I to have an argument about
11 that.

12 MR. HARRIS: Well, neither one of us know
13 for sure what, quote, the law is.

14 MR. PINKERTON: Nobody was indicating that
15 that was being represented here.

16 MR. HARRIS: We can check with the judge,
17 if you want to. This is a subpoena-type situation.

18 MR. PINKERTON: Sure.

19 MR. HARRIS: And all I'm asking is what he
20 said to his boss and what his boss said to him about
21 this matter. I'm not asking him about company business
22 or personal business or anything else.

23 THE WITNESS: I'd like to, if I could,
24 excuse myself for a moment and call my counsel --

25 MR. PINKERTON: Okay.

1 MR. HARRIS: Okay.

2 MR. PINKERTON: That's fine with me.

3 MR. HARRIS: You can call him.

4 THE WITNESS: -- to see if we should
5 proceed with this.

6 MR. PINKERTON: Okay.

7 (Recess taken)

8 MR. HARRIS: Back on the record.

9 Mr. Wilson will dictate into the record or read into the
10 record the exhibit numbering or tab numbering for what's
11 been marked as the declaration, Exhibit 2.

12 MR. WILSON: Exhibit 2 has had tabs
13 inserted into it. When it was originally placed into
14 the record, it did not have tabs and it was difficult
15 to follow the exhibits that were attached to the
16 declaration that comprises the exhibit in the
17 transcript. So we've put tabs in. And as a result, the
18 Bates numbers are somewhat out of order. The attorneys
19 have all looked at it and the witness has looked at it
20 and I believe everybody agrees that the tabs are now in
21 the correct order and with the correct documents as the
22 declaration was originally prepared and executed by
23 Scott Brown.

24 Is that correct? Everybody's in agreement
25 with that?

1 Mr. Pinkerton?

2 MR. PINKERTON: Yeah. We're in agreement
3 with that.

4 MR. WILSON: Mr. Brown?

5 THE WITNESS: Yeah.

6 Q. (By Mr. Harris) Mr. Brown?

7 A. Yes, sir.

8 Q. You made a call so you could have a
9 consultation with an attorney, I believe?

10 A. Yes.

11 Q. And I'm, for the moment, in your hands. If you
12 don't open your mouth, well, then, the record doesn't
13 get made. Nothing happens unless you talk. So tell me
14 whether or not you're going to testify and what you have
15 to report.

16 A. Yes, I'm going to testify.

17 Q. All right.

18 A. I would like to clarify one statement that
19 was -- the question that was asked and answered
20 earlier. You asked something to the effect of, if I had
21 spoken to anyone about the substance of the affidavit
22 before the affidavit was taken. I took "substance" to
23 mean the subject matter. So I guess what is your -- can
24 you clarify your question about substance? What is --

25 Q. Yes. That's what that question was. I

1 wouldn't say I wouldn't have follow-up questions,
2 but that is the question that was pending then.

3 A. Okay. So --

4 Q. And that's what I meant by it.

5 A. Is it accurate to say, then, it was the
6 subject -- you wanted to know if we had spoken about
7 the subject in general?

8 Q. Well, the subject matter of the affidavit or
9 declaration that resulted.

10 A. Well, I -- just to clarify, I did not -- my
11 answer will be, no, I did not speak to anyone, if you're
12 asking if I discussed everything in the affidavit,
13 because the affidavit hadn't occurred yet, for one
14 thing. My answer would be, yes, if you're asking did I
15 speak to someone as to whether or not I would be giving
16 an affidavit.

17 Q. Did you indicate what the affidavit would be
18 about?

19 A. Yes.

20 Q. And what did you say and what did they say?

21 MR. PINKERTON: Well, the they --

22 Q. (By Mr. Harris) Who is the someone, to begin
23 with?

24 MR. PINKERTON: Yeah.

25 A. The someone is Lowell Gilbertson, who would be

1 my supervisor.

2 Q. (By Mr. Harris) All right.

3 A. And the subject was, my understanding, there
4 was a lawsuit that has to do with a patent infringement
5 that I've been asked to answer some questions. That
6 was -- and the question of -- you want me to proceed
7 with it?

8 Q. Did you tell him who the lawsuit was between?

9 A. Yes.

10 Q. And what did he say?

11 A. I don't recall.

12 Q. Do you recall anything at all that he said?

13 A. Cooperate. If they're asking you for
14 information, to cooperate.

15 Q. Did he give you any reason for cooperating?

16 A. No.

17 Q. Did you discuss with him or he with you the
18 fact that Printing Research was on one side and
19 Williamson was on the other side and Williamson was
20 a good customer?

21 A. No.

22 Q. Or that Williamson was a good potential
23 customer?

24 A. No.

25 Q. Did you discuss the subject further after you

1 gave the declaration or affidavit? Did you discuss it
2 further with your supervisor?

3 A. Briefly.

4 Q. And did he look at the declaration or
5 affidavit?

6 A. No.

7 Q. What was the discussion, as well as you can
8 remember, that took place after the giving of the
9 affidavit?

10 A. Just a short discussion. I told him that I was
11 asked about technical issues about some print testing
12 that was done. That was the sum of it.

13 Q. Did you later have a discussion with him about
14 testifying here today?

15 A. No.

16 Q. Does he know you're testifying?

17 A. Yes. Just spoke to him.

18 Q. What?

19 A. Yes. I just spoke to him on the telephone.

20 Q. Just now?

21 A. Right.

22 Q. But he didn't know before that?

23 A. No. I was just made -- given this a couple
24 days ago.

25 Q. You what?

- 1 A. I was just given this a few days ago.
- 2 Q. Did you communicate with him on paper --
- 3 A. No.
- 4 Q. -- or by e-mail or some other means, oral?
- 5 A. Communicate with him --
- 6 Q. About this --
- 7 A. About this?
- 8 Q. -- testimony today?
- 9 A. No.
- 10 Q. About you needing to testify today?
- 11 A. No.
- 12 Q. Have you had any contact with Mr. Baker about
- 13 this lawsuit?
- 14 A. No. Are you --
- 15 Q. Do you know him?
- 16 A. Are you speaking of Steve Baker?
- 17 Q. Yes.
- 18 A. I have not had any contact with him about this
- 19 subject at all.
- 20 Q. Including the reissue application and the
- 21 patent offers?
- 22 A. No discussions with Steve.
- 23 Q. Have you had any discussions with either
- 24 Mr. Pinkerton or Mr. Falk?
- 25 A. Other than the affidavit?

1 Q. Any discussions at all.

2 A. Well, Mr. Falk --

3 MR. PINKERTON: Maybe you can break it
4 down. Would you mind breaking it down, Bill, between
5 Pinkerton and Falk?

6 MR. HARRIS: Well, I thought he could
7 break it down in his answer.

8 Q. (By Mr. Harris) Have you had any discussions
9 with Mr. Pinkerton before today?

10 A. No.

11 Q. Did you have a discussion with him this
12 morning?

13 A. No.

14 Q. Would you describe the contacts and
15 discussions, any communications between you and
16 Mr. Falk?

17 A. We -- I believe we had two meetings to compile
18 this affidavit.

19 Q. Here in Dallas?

20 A. Yes.

21 Q. When?

22 A. Well, I would have to do some looking back to
23 tell you that. Let's see if I have the answer.

24 MR. PINKERTON: While he's doing that,
25 Steve, do you have that copy that we brought over or

1 that came over?

2 MR. WILSON: Yeah. Marty was using it.

3 MR. PINKERTON: Marty, can we see that
4 copy? Let's see if the date -- I think we have a
5 question about the date the declaration was signed.

6 THE WITNESS: Yeah. It's illegible.

7 MR. PINKERTON: Yeah. This one's
8 legible. This one appears to be 12/30/99.

9 MR. WILSON: That's the signature on
10 Exhibit 2.

11 MR. PINKERTON: Yeah. Page 5, Exhibit 2.

12 A. I don't have those records with me as to what
13 specific dates.

14 Q. (By Mr. Harris) What records are those that
15 you're referring to?

16 A. My schedule.

17 Q. Your schedule shows when you met with
18 Mr. Falk?

19 A. Uh-huh, yes.

20 Q. Do you have any other papers of any kind that
21 relate to this matter?

22 A. No.

23 Q. That's the closest thing to something else you
24 have, then, huh?

25 A. Regarding the matter of meeting with Mr. Falk?

1 Q. Regarding the matter of this lawsuit and the
2 reissue.

3 A. You have everything in the affidavit.

4 Q. I don't have your appointment book or any pages
5 from it. And it just reminded me to ask you again what
6 you have that was related to this subject matter.

7 A. And you do have copies of some of the pertinent
8 pages from my schedule book in Section H.

9 Q. You may have the Falk copy there. Is it?

10 A. I don't see that here, no. It was not -- I
11 wouldn't -- it wasn't available when -- the day we
12 talked. In other words, the information we were
13 discussing didn't have to do with that day we met.

14 Q. Didn't have to do with what?

15 A. I wasn't asked to provide anything that said
16 that I met with Mr. Falk on a certain day. And I --

17 Q. That may be --

18 A. -- and that may or may not be --

19 Q. And I'm not trying to pick nix with you. I'm
20 just trying to find out what you've got.

21 A. And I may or may not be able to provide you
22 with a copy of my schedule that says I met with Mr. Falk
23 on a certain day.

24 Q. Anyway, is it fair to say that on the day that
25 the affidavit was signed, you met with him, then?

1 A. Yes.

2 Q. And the other time you met with him, was it
3 before or after the affidavit was signed?

4 A. Before.

5 Q. And how long was the first meeting?

6 A. I couldn't tell you for certain. Perhaps an
7 hour, perhaps an hour and a half.

8 Q. And where did it take place?

9 A. At Williamson Printing.

10 Q. Were any of the Williamson people present?

11 A. No.

12 Q. Why did you meet at Williamson Printing?

13 A. Convenience. I had a meeting scheduled
14 earlier, and Mr. Falk was going to be there.

15 Q. Were you trying to sell him something,
16 Williamson?

17 A. Always.

18 Q. Always trying to sell him something? Do they
19 buy from you?

20 A. Yes, they do.

21 Q. Do they buy a lot from you?

22 A. Yes, I would say so.

23 Q. Do you work on commission in whole or in part?

24 A. In part.

25 Q. Does a big order generate a big payment to you

1 in commission?

2 A. That's very subjective. Each circumstance
3 differs.

4 Q. Is it fair to say that you yearly get
5 commissions from sales to Williamson of thousands
6 of dollars?

7 A. I can't predict the future.

8 Q. I'm talking about the past.

9 A. The past, yes.

10 Q. Ever over a hundred thousand dollars?

11 A. No.

12 Q. Does hope always remain that it will get that
13 big?

14 A. Does my hope remain?

15 MR. PINKERTON: I'm going to object to
16 speculation. Object to form.

17 MR. HARRIS: No. I'm looking for a state
18 of mind, which is reasonable.

19 MR. PINKERTON: Object to form, asking for
20 speculation.

21 A. I couldn't speculate on that.

22 Q. (By Mr. Harris) Is it possible that they could
23 generate that much?

24 MR. PINKERTON: Same objection. Object to
25 form, asking for speculation.

1 Q. (By Mr. Harris) You can answer the question,
2 please.

3 A. I couldn't answer that question.

4 Q. Does that mean you don't know?

5 A. I don't know. I cannot answer that question.
6 I could not. That's speculative.

7 Q. So you're just saying you don't know, then?
8 You either know or you don't know.

9 A. I --

10 Q. Which is it?

11 THE WITNESS: Are we constantly on record
12 here?

13 A. I don't like being spoken to sharply.

14 Q. (By Mr. Harris) Which is it? No sharpness
15 intended. I'm looking for an answer.

16 MR. PINKERTON: And let the record reflect
17 that counsel now in two questions has raised his voice
18 and used quite a bit of inflection in asking for and
19 insisting on an answer. And I object to the tone of
20 voice. I object to the argumentative nature in which
21 the question is being conducted.

22 MR. HARRIS: Don't mean to be
23 argumentative.

24 Q. (By Mr. Harris) Which is it?

25 A. I believe I've answered the question.

1 Q. Is it you don't know?

2 A. Restate the question.

3 Q. My question was, do you -- I'm not sure I can
4 exactly restate it. I'll try. My question was, do you
5 hope in the future to be able to generate from sales to
6 Williamson as much as a hundred thousand dollars -- over
7 \$100,000 in a year? And that's commission I'm talking
8 about actually.

9 MR. PINKERTON: And the same objection.
10 Object to form and asking for speculation.

11 Q. (By Mr. Harris) Do you?

12 A. I can't speculate on that.

13 Q. I'm not asking you to speculate. I'm asking
14 just yes or no.

15 MR. PINKERTON: Same objection.

16 A. That's my answer.

17 Q. (By Mr. Harris) Your answer is?

18 A. That I --

19 Q. That you might or you might not?

20 A. That I couldn't speculate on that.

21 Q. Is it possible?

22 MR. PINKERTON: Same objection. Object to
23 form, asking for speculation, and asked and answered.

24 Q. (By Mr. Harris) Is it possible?

25 MR. PINKERTON: Same objection. Counsel,

1 can we move on to another area of inquiry?

2 MR. HARRIS: In due course, I certainly
3 will.

4 MR. PINKERTON: Well, I don't want the
5 deposition to become unduly burdensome and oppressive to
6 this witness. He's not my witness, but I think
7 continuing to ask the same question when he's given you
8 the best response he can is out of bounds.

9 MR. HARRIS: The best response --

10 Q. (By Mr. Harris) Are you giving me the best
11 response you can? And that's a fair way to put it.

12 A. Yes.

13 Q. I'll take that if that's true.

14 A. Yes.

15 Q. Who was it at Williamson, if you know, that
16 suggested that you might be able to provide something
17 in the way of information to Mr. Falk?

18 MR. PINKERTON: Object to form.

19 Q. (By Mr. Harris) Again, if you know, of
20 course.

21 A. Do you want to restate that, rephrase that,
22 or --

23 MR. PINKERTON: You can go ahead. I can
24 state the objection and then you can go ahead and
25 answer, if you can.

1 A. Okay. Ask it again. I'm sorry.

2 Q. (By Mr. Harris) Okay.

3 A. Do you mind?

4 MR. HARRIS: What I'd like to do is to
5 take of all things at this time a five-minute recess so
6 everybody can kind of cool it down.

7 MR. PINKERTON: Okay.

8 MR. HARRIS: I will try to get the answer
9 to that one before we do it.

10 MR. PINKERTON: Okay.

11 Q. (By Mr. Harris) And the question simply is,
12 who was it, if you know, at Williamson that placed you
13 and Mr. Falk in contact?

14 MR. PINKERTON: Object to form.

15 Go ahead and answer.

16 A. It was mentioned to me by Bill Davis and then
17 Mr. Falk contacted me not through Mr. Davis.

18 Q. (By Mr. Harris) Right. Mr. Davis was the one
19 that talked to you first and told you to expect a call.
20 Is that it?

21 A. Yes.

22 Q. From Mr. Falk?

23 A. Yes.

24 MR. HARRIS: Let's take that five minutes.

25 MR. PINKERTON: Okay.

1 (Recess taken)

2 Q. (By Mr. Harris) My recollection is that you
3 joined the company in '94, but I may be wrong. Would
4 you straighten me out?

5 A. That's correct, 1994.

6 Q. 1994?

7 A. (Witness nods.)

8 Q. What time of the year in '94?

9 A. Spring.

10 Q. Can you tell me what month?

11 A. I believe it was in April. April of 1994.

12 Q. Was the initial job you had with the company
13 located here, Atlanta, New York, or where?

14 A. Here, Dallas.

15 Q. And by "Dallas," do you mean geographically
16 Dallas or the Dallas metroplex or what?

17 A. It encompassed parts of Dallas, surrounding
18 cities, Houston, East Texas, and Northern Louisiana.

19 Q. Were you an outside salesman?

20 A. Yes.

21 Q. So you didn't actually office at a plant or a
22 fixed office location for the company?

23 A. We do have an office in Dallas.

24 Q. Did you then?

25 A. Yes.

1 Q. And did you spend much time in that office?

2 A. No.

3 Q. Is it fair to say you were mostly out seeing
4 customers?

5 A. Yes.

6 Q. Or potential customers?

7 A. Yes.

8 Q. Who did you first meet at Williams, as you can
9 recall?

10 A. Williamson Printing? Probably Bill, Bill
11 Davis.

12 Q. Do you know when you first met Mr. Davis?

13 A. Uh-huh. About 19 -- let's see. Maybe 1986.

14 Q. You had known him for several years, then, when
15 you went to work for Heidelberg, right?

16 A. Yes.

17 Q. What was your prior employment?

18 A. I worked for Graphic Equipment Southwest.

19 Q. Are they a competitor of Heidelberg?

20 A. Yes.

21 Q. In all areas or is there some overlap in
22 competition?

23 A. In all geographic areas? Is that --

24 Q. No. I was talking about technical areas,
25 mechanical areas, or what have you.

1 A. They sell printing presses only.

2 Q. Had you done business with Williamson or
3 Mr. Davis before you went to work for Heidelberg?

4 A. My capacity as contact was primarily from a
5 service standpoint. I held the position of service
6 manager for a number of years. And Williamson Printing
7 had purchased four Komori machines, K-o-m-o-r-i.

8 Q. Oh, on the first page, you might help me
9 clear something up. The first page of Exhibit 2,
10 your declaration. Do you have it?

11 A. Yes.

12 Q. In the third line of Paragraph 2, I notice an
13 interlineation that's apparently been initialed by you,
14 correct?

15 A. Yes.

16 Q. Did you make a mistake the first time that you
17 wrote it and have to correct it?

18 A. Are you referring to the Weisloch?

19 Q. Yes.

20 A. That -- when this was -- it was a
21 clarification.

22 Q. Did you make a mistake at Heidelberg?

23 MR. PINKERTON: Objection, asked and
24 answered.

25 A. It's a clarification. The factory for

1 Heidelberg is --

2 Q. (By Mr. Harris) Did Mr. --

3 A. -- actually in Weisloch, which is a suburb of
4 Heidelberg.

5 Q. Did Mr. Falk misunderstand when he was helping
6 you on the affidavit?

7 A. In what way?

8 Q. On the Heidelberg --

9 A. That's possible.

10 Q. -- Germany? Huh?

11 A. That's possible.

12 Q. And then you caught it when you read the copy?

13 A. Yes.

14 Q. And on Page 2, I see another interlineation
15 that you've initialed. Do you see it?

16 A. Yes.

17 Q. And do you think that Mr. Falk might have
18 misunderstood and you were correcting when you made
19 it clear that that was a coating tower rather than just
20 a plain first tower?

21 A. This was a clarification that it was a coating
22 tower.

23 Q. And am I correct that that's probably the way
24 it happened?

25 A. Tell me again.

1 Q. You didn't write it that way yourself in those
2 words, did you? I mean, you may have told the story,
3 the subject as you thought, but --

4 A. Yeah.

5 Q. -- isn't it true that it was just typed wrong,
6 then?

7 A. That's a possibility or I may often refer to --
8 particularly in this machine, the coating towers just as
9 towers.

10 Q. As what?

11 A. Just as towers. So I just wanted to clarify
12 by writing in there that I was talking about coating
13 towers.

14 Q. Instead of the first tower, to make it the
15 first coating tower?

16 A. Yes.

17 Q. The coating towers in that context come after
18 the regular printing towers, do they not?

19 A. The coating towers do come after the printing
20 units, yes.

21 Q. And so that reference is to the first of those
22 towers, true?

23 A. Yes.

24 Q. On Exhibit A, Tab Exhibit A that's attached to
25 Exhibit 2 to your deposition, a June 3 letter, do you

1 see it? Or it's a telefax actually.

2 A. Yes.

3 Q. Whose notes is it at the bottom of the letter?

4 A. The handwritten note is mine.

5 Q. And it's talking about the subject WIMS; is
6 that correct?

7 A. Yes.

8 MR. FALK: Bill, may I have a copy -- do
9 you have an extra copy with exhibits?

10 MR. WILSON: Sure.

11 MR. FALK: Thank you.

12 MR. WILSON: Yeah.

13 Q. (By Mr. Harris) Is the WIMS process you were
14 describing in this letter partially a flexographic
15 process?

16 A. In --

17 Q. Where you wrote on the bottom of this letter,
18 Exhibit A.

19 A. I don't -- I couldn't answer that. I don't
20 know if at that point if they're producing with flexo or
21 not.

22 Q. Well, you say it's the patented process, right?

23 A. Yes.

24 Q. Did you see the process -- I'm sorry. Did you
25 see the process patent?

1 A. Did I see the patent?

2 Q. Uh-huh.

3 A. No.

4 Q. Have you seen it since?

5 A. No.

6 Q. Can you describe the WIMS process for us?

7 A. It's exactly as I put in this note. Process
8 where the color separations include a -- an additional
9 two colors being silver and gold metallic.

10 Q. And you're not sure whether it's -- involves a
11 step of some sort using flexographic technology?

12 A. I was not sure at that point in time, no.

13 Q. And that would have been sometime after
14 June 3rd or on that day when you wrote the note?

15 A. Yes.

16 Q. Can you recall when you wrote the note?

17 A. No, I can't recall. I could guess that would
18 either be on June 3rd or 4th.

19 Q. You had only been with the company a couple of
20 months when this occurred, right?

21 A. Yes.

22 Q. How did you obtain the information that you
23 imparted in script at the bottom of this telefax message
24 of June 3, Exhibit A?

25 A. I had known about this process for some time,

1 that it was something unique to Williamson through
2 discussions with Bill and Jesse. It was kind of a
3 known thing, kind of a special thing.

4 Q. Are you suggesting "for some time," that it
5 extends before you joined the company, Heidelberg?

6 A. Yes.

7 Q. How much before?

8 A. I couldn't say.

9 Q. Not to get into it with you again, but does
10 that "couldn't say" mean I don't remember or I don't
11 know?

12 A. I don't remember.

13 Q. Did you ever see the process practiced?

14 A. No.

15 Q. Did you see product from the process?

16 A. Yes.

17 Q. When was that?

18 A. Again, I couldn't recall the specific dates or
19 time, but prior -- prior to and after my employment with
20 Heidelberg.

21 Q. What did a typical product look like? I know
22 that's kind of hard to answer. Do your best for me,
23 please.

24 MR. PINKERTON: Object to form. I'm
25 sorry. Vague and indefinite.

1 A. Could you ask the question again?

2 Q. (By Mr. Harris) Yeah. I asked, what did a
3 typical product look like to you, as best you could
4 describe it.

5 A. The best I could recall, printed sheets with
6 generally pictures of or images of jewelry, automobiles
7 with chrome, things of that nature that would -- that
8 the silver and the gold or the silver or gold would
9 accentuate the image.

10 Q. Had you seen such products with the process
11 prior to coming with the company? And by "coming with
12 the company," I mean with the Heidelberg USA Company.

13 A. Had I seen products of -- yes.

14 Q. Was that at the Williamson plant?

15 A. Yes.

16 Q. Were you acquainted with PRI before joining
17 Heidelberg?

18 A. Yes..

19 Q. And how long had you been acquainted there?

20 A. Since about 1986. That's when I started with
21 Graphic Equipment Southwest.

22 Q. Were they in the same business as Williamson?

23 A. Graphic Equipment Southwest?

24 Q. No. I'm talking about Printing Research, Inc.
25 My question was a little vague. Now do you understand?

1 A. Was Printing Research in the same business as
2 Williamson?

3 Q. Yes.

4 A. Not to my knowledge.

5 Q. Is it fair to say that you didn't believe they
6 were competitors?

7 A. Yes.

8 Q. Did you do any business with Printing
9 Research?

10 A. Yes.

11 Q. Have you done business with Printing Research
12 in recent years?

13 A. Yes.

14 Q. Very much?

15 A. Not sure how to quantify that, but --

16 Q. I'm sorry?

17 A. I would say -- I would just have to say, yes,
18 we've done business.

19 Q. In what area what do you sell?

20 A. The -- many of our presses are factory
21 installed with their Super Blue System. And we have one
22 product, a small press, that PRI Super Blue is an option
23 to be sold. And I have sold some of their drying
24 equipment.

25 Q. And you sold what? I'm sorry?

1 A. Some of their drying equipment.

2 Q. As I understand it, the Super Blue you
3 testified to is a product actually that your company has
4 purchased from them? That is, Printing Research, Inc.
5 Is that true?

6 A. I don't -- I don't know. Do you mean do we buy
7 the product Super Blue from PRI?

8 Q. Yes.

9 A. Yeah. I would think so.

10 Q. Wasn't that one of the things you mentioned to
11 me?

12 A. I said it was factory installed, yes.

13 Q. Yeah. And so in the sense of the word on that
14 particular product -- well, you're their customer,
15 true?

16 A. No. Heidelberg is the customer of PRI.

17 Q. What?

18 A. Heidelberg is a customer of PRI.

19 Q. Yes. Is PRI a customer of Heidelberg?

20 A. Not to my knowledge.

21 Q. And you don't get any kind of commission from
22 things that happen at PRI as relates to Heidelberg? In
23 other words, these sales that we're talking about?

24 A. No, I don't.

25 Q. So they're not a revenue producer for you?

1 A. No.

2 Q. Who are you acquainted with best at Printing
3 Research?

4 A. Frankly, I don't know who's still there. Over
5 the years, I guess I got to know Howard Byrd pretty
6 well. And an acquaintance with Steve Baker, but I don't
7 even know if Steve's still with the company.

8 Q. Can I help you with a correction? I want to be
9 sure that I'm right. Isn't it John Byrd instead of
10 Howard Byrd?

11 A. Yeah, and his son, Warren.

12 Q. Did you get acquainted with Mr. DeMoore?

13 A. Just a passing acquaintance. He was always
14 very friendly.

15 Q. Did you get acquainted with Mr. Dave Douglas?

16 A. That -- I don't think I know him.

17 Q. Did you get acquainted with Mr. Ron Rendall?

18 A. That name doesn't ring a bell either.

19 Q. Did Mr. Byrd ever discuss this WIMS process
20 with you, the one that you're writing about on
21 Exhibit A, the letter we were talking about or the fax
22 of June 3rd?

23 A. I don't recall any conversations with John Byrd
24 about that process.

25 Q. Did he ever talk to you in a more general sense

1 or you to him about a combination process involving both
2 flexography and lithography?

3 A. No.

4 Q. Had you seen flexo running in an offset press
5 before you joined Heidelberg?

6 MR. PINKERTON: Would you read that
7 question back, please.

8 (Requested text read)

9 MR. PINKERTON: Objection to form. It's
10 vague and ambiguous.

11 Q. (By Mr. Harris) Do you understand the
12 question?

13 A. I think I understand the question. There are
14 flexographic presses that print.

15 Q. I guess the question is, did you see those
16 flexographic presses in action, running in an offset
17 type press before you joined Heidelberg?

18 MR. PINKERTON: Same objection. Objection
19 as to form, vague and ambiguous.

20 A. Ask the first part of that again.

21 Q. (By Mr. Harris) Well, the first part of it is
22 to identify flexographic printing, flexo. And the next
23 thing is, have you seen it running in an offset press
24 before you joined Heidelberg?

25 A. Well, there -- as I said, there's a printing --

1 a type of printing press that uses offset technology
2 that is called a flexo press.

3 Q. Have you seen it running?

4 A. Sure.

5 Q. Before you joined Heidelberg?

6 A. Yeah.

7 Q. And was it offset?

8 A. To an offset process.

9 Q. I think I didn't know what I was asking. I'll
10 try again.

11 MR. PINKERTON: Shall we move to strike
12 those questions and answers?

13 MR. HARRIS: No. I don't think that's
14 necessary.

15 MR. PINKERTON: Voluntarily.

16 Q. (By Mr. Harris) Have you seen the flexo
17 running in any type of press other than a Heidelberg
18 press?

19 MR. PINKERTON: Again, I'm going to object
20 to form, vague and ambiguous. Have you ever seen it
21 running? That defies my comprehension, but maybe the
22 witness knows what it means.

23 MR. HARRIS: Just a minute.

24 (Off-the-record discussion)

25 Q. (By Mr. Harris) Have you ever seen on any

1 press, other than Heidelberg, a coating system with an
2 anilox roller running colored inks?

3 MR. PINKERTON: Object to form and object
4 to timeliness.

5 You're talking about ever prior to today?

6 MR. HARRIS: Yeah.

7 MR. PINKERTON: Okay. And would you
8 repeat the question one more time, please.

9 Read it back.

10 MR. HARRIS: It would be better if you do
11 it.

12 (Requested text read)

13 A. No, not to my recollection.

14 Q. (By Mr. Harris) Not to insult your
15 intelligence, but you do know what an anilox roller
16 is, don't you?

17 A. Yes.

18 Q. And could you describe one generally?

19 A. It's a roller that is screened or pitted with a
20 specific pattern designed to carry more or less coating
21 or coating material or dispersion coatings.

22 Q. Is it generally run in assembly with some kind
23 of a control blade?

24 A. Yes.

25 Q. What is that blade called?

1 A. Chambered doctor blade.

2 Q. And can you tell me if such a configuration has
3 been around pre-1990?

4 MR. PINKERTON: I object to form as to
5 which configuration, Bill. You're asking about the
6 anilox roller and the chambered doctor blade, both,
7 combination?

8 MR. HARRIS: Yeah. Make it the
9 combination.

10 MR. PINKERTON: Okay. Been around --
11 sorry. Now on the time, been around prior --

12 MR. HARRIS: 1990, I believe is what I
13 said.

14 MR. PINKERTON: Okay. Been around as of
15 1990?

16 MR. HARRIS: Yes.

17 A. I don't know.

18 Q. (By Mr. Harris) When is the first that you're
19 aware of, that is, the existence of such combination on
20 a Heidelberg press?

21 A. Sometime in 1994.

22 Q. And where did you see such a combination?

23 A. I believe it was at -- on our demo floor in --

24 Q. On what? I'm sorry?

25 A. On one of our demonstration facilities in

1 Chicago was the first time I believe I saw that, an
2 anilox roller.

3 Q. Uh-huh. And it had a doctor blade working with
4 it, did it not?

5 A. Yes.

6 Q. And where was it mounted with respect to the
7 press?

8 A. On the coating tower.

9 Q. That's the caboose end of the press, is it
10 not?

11 A. Yes.

12 Q. When in 1994? Is that the same as asking you
13 when you went to Chicago to -- to whatever kind of a
14 meeting it was?

15 A. I don't recall.

16 Q. That is the same, isn't it? Chicago was when
17 it was, right?

18 A. The first time I saw it?

19 Q. Uh-huh.

20 A. Yes.

21 Q. But what you don't recall is when you went to
22 Chicago?

23 A. Right.

24 Q. True?

25 A. That's true.

1 MR. PINKERTON: This is off the record.

2 (Off-the-record discussion)

3 Q. (By Mr. Harris) Do you know how long
4 Heidelberg has been running that process? And by "that
5 process," I mean the one that has the -- on the coater,
6 the anilox chambered doctor assembly?

7 A. I do not know.

8 MR. HARRIS: Hour and a quarter?

9 MR. PINKERTON: Yeah, 1:30.

10 (Recess taken)

11 Q. (By Mr. Harris) I'd like for you to refer to
12 what's been marked as Exhibit 2. Now, that is the
13 declaration, is it not?

14 A. Yes.

15 Q. You are nodding?

16 A. Yes, it is.

17 Q. I understand you mean yes, but the reporter has
18 trouble with a nod.

19 I am looking at the bottom lines on the
20 first page starting with, I met Jesse Williamson and
21 Bill Davis in the late spring of 1994, and was told by
22 them of there WIMS proprietary process for printing
23 metallic inks by offsetting lithography.

24 You do see that, do you not?

25 A. Yes.

1 Q. And then you say, Upon learning the
2 fundamentals of this process as explained to me by Jesse
3 Williamson and Bill Davis, I told the president of
4 Heidelberg USA -- and you're going to have to help me
5 with that pronunciation.

6 A. It's Hans Peetz-Larsen.

7 Q. One more time?

8 A. Hans Peetz-Larsen.

9 Q. Peetz? -- of this process. See Exhibit A. In
10 referring to Exhibit A, we talked earlier, had we not,
11 about it and specifically about your handwriting on the
12 bottom of it?

13 A. Yes.

14 Q. And then -- well, strike that.

15 And what I want to say instead is, what
16 you're talking about is that the fundamentals of the
17 processes, as you understood them, are at the bottom of
18 Exhibit A; is that true?

19 MR. PINKERTON: Objection to form in
20 regard to plural processes.

21 MR. HARRIS: I said process.

22 MR. PINKERTON: I thought you said
23 plural. The processes is what I thought you said.

24 MR. HARRIS: I hope I didn't say plural.

25 MR. PINKERTON: Object to form in regard

1 to -- this talks about the WIMS process.

2 Q. (By Mr. Harris) Whatever it's talking about,
3 it's on the bottom of the page of Exhibit A and that's
4 what you're making reference to that you learned the
5 fundamentals of the process as explained to you by
6 Jesse Williamson and Bill Davis when they told you about
7 their WIMS proprietary process; isn't that true?

8 A. Yes.

9 Q. Now, looking to Exhibit B that has been
10 referenced by a tag at the end of Exhibit 2 to this
11 deposition, I'm -- I need your help in telling me just
12 what that is. It's an August 5, 1994 letter, is it not?

13 A. Yes.

14 Q. To Bob Boyer?

15 A. Yes.

16 Q. And from Jerry Williamson?

17 A. Yes.

18 Q. And I don't -- I don't see you copied on the
19 letter. Did you receive it at that time?

20 A. I received a copy from Bob Boyer.

21 Q. Boy Emery?

22 A. Bob Boyer.

23 Q. He just didn't happen to put your name down.
24 Is that it?

25 A. Jerry wrote the letter. He only copied his --

1 Q. I see what you mean.

2 A. -- company's people.

3 Q. You weren't copied by Jerry, but then Bob got a
4 copy to you. Is that what you said?

5 A. Bob Boyer gave a copy to me.

6 Q. Now, does this represent a contract, this
7 letter, as you understand it? I'm not trying to make a
8 lawyer out of you.

9 MR. PINKERTON: Object to form.

10 A. No.

11 Q. (By Mr. Harris) Does it?

12 A. No, it does not.

13 Q. How would you characterize it, then, as to
14 purpose?

15 A. Clarification of some various points and some
16 outstanding questions that were made -- needed response
17 from us.

18 Q. Does the letter indicate that there was an oral
19 commitment made to buy presses?

20 A. I have to review the letter.

21 Q. Okay.

22 A. This -- particularly in Paragraphs 4 and 5.

23 Q. Okay. Let's see here.

24 A. I believe -- and 2 specifically are talking
25 about the purchase of the presses.

1 Q. Uh-huh. And in 5, there's a discussion about
2 various options of approach, however, are there not or
3 is there not?

4 A. I'm sorry? Say that again.

5 Q. Paragraph 5 talks about various options of
6 approach to handling a transaction?

7 A. Yes.

8 Q. Is that not true?

9 A. Yes.

10 Q. When was the order firmed up in writing to
11 where it would be more than an oral commitment?

12 A. I don't have an exact date.

13 Q. You what, sir?

14 A. I don't have an exact date.

15 Q. Do you have an approximate date? I'll take
16 what you've got.

17 A. I think that -- I don't have an exact date. An
18 approximate date would probably be sometime in August of
19 '94.

20 Q. Some period of time later, but maybe not much
21 later, right?

22 A. Correct.

23 Q. But you're not sure?

24 A. No, not sure of the exact --

25 Q. Now, I'll come back to this next paragraph a

1 little bit later. Where it starts off, At about the
2 time of the August 5, 1994 Jerry Williamson and winds up
3 at the end of the full Paragraph 2 with, They wanted to
4 perform tests to demonstrate the merits of this new,
5 improved process to be conducted in Germany.

6 Now, I do have one question about that as
7 we pass by it now, however. I don't -- well, strike
8 that.

9 Let me just say that I would appreciate
10 it if you could tell me if there is any documentation
11 or drawings or any kind of a notation of any sort to
12 support what's stated in that paragraph other than the
13 extent to which you think Exhibit B does that.

14 A. Exhibit B also contains correspondence with
15 people at BASF regarding their --

16 Q. Is that correspondence about plates?

17 A. About plates and also about what's called a
18 round exposing unit.

19 Q. Uh-huh. It doesn't show or tell or suggest
20 anything about a litho flex process or lithography,
21 slash, flexography process, does it?

22 MR. PINKERTON: Object to form, leading.

23 Q. (By Mr. Harris) Would you like to have that
24 read back?

25 A. Yes.

1 MR. HARRIS: Would you.

2 (Requested text read)

3 Q. (By Mr. Harris) Are you speaking about the
4 BASF material?

5 A. Yes. My opinion would be, yes, it does
6 indicate --

7 Q. Could you explain?

8 A. -- flexo. This is -- a photopolymer coating
9 plate is a flexo process plate.

10 Q. And where are the comments in that material
11 about the lithography part?

12 A. My answer to your question had to do with your
13 question about flexography.

14 Q. Well, I was meaning to put it a combination
15 process of some type between lithography and
16 flexography. That's what I meant by my slash and by
17 calling it also litho flex.

18 MR. PINKERTON: Object to the use of the
19 term litho flex, as well.

20 A. I don't know that term.

21 Q. (By Mr. Harris) You do know the term
22 lithography and flexography. And do you understand
23 what I'm getting at when I say slash in between?
24 Lithography, slash, flexography, or if you like,
25 flexography, slash, lithography?

1 MR. PINKERTON: Just so the record's
2 clear, I think by using slash, you're talking about a
3 combination of flexography and lithography?

4 MR. HARRIS: Certainly.

5 A. I understand that.

6 Q. (By Mr. Harris) Okay.

7 MR. HARRIS: I'm not sure I was clear to
8 begin with.

9 MR. PINKERTON: You were, then it got
10 unclear. It was great, then it got messed up.

11 MR. HARRIS: You think so, huh?

12 A. So you're wondering if this BASF material
13 indicates what? It does indicate flexography.

14 Q. (By Mr. Harris) It indicates something about
15 flexography, right?

16 A. Yes.

17 Q. It doesn't talk about lithography at all, does
18 it?

19 A. Well, I can't read all of it, so I really can't
20 tell you.

21 Q. Well, sir, can you -- you mean the copy's so
22 poor?

23 A. Right. I can't make out the third page here at
24 all.

25 Q. Well, I think we can do something about that.

1 MR. PINKERTON: Pretty small print.

2 MR. WILSON: It's Exhibit B, isn't it?

3 MR. HARRIS: It is.

4 THE WITNESS: Last page of Exhibit B.

5 MR. WILSON: This one that you gave me,
6 Bobby, doesn't have any of this BASF stuff in it.

7 MR. PINKERTON: Let me see it. That is
8 1265?

9 MR. WILSON: Here it is right here. We
10 got it reshuffled.

11 MR. HARRIS: Bobby. Did you short sheet
12 us?

13 MR. FALK: Pardon? What are you saying?

14 MR. PINKERTON: We got it. It got
15 shuffled. The exhibits are out of order.

16 MR. WILSON: Is that the same stuff?

17 MR. PINKERTON: Yeah, I think. Yeah.

18 It's the same document. It's got that little arrow at
19 the top just like this one does.

20 MR. FALK: Are we all referring to
21 W001265?

22 MR. PINKERTON: Yeah. Of course, here
23 it's not numbered, but he's looking at a copy of that
24 that's not Bates numbered.

25 MR. HARRIS: What did you say Bobby? What

1 number?

2 MR. FALK: On this one, on your subpoenaed
3 version, this is W001265. It's the Bates number at the
4 bottom.

5 MR. HARRIS: That's true.

6 MR. FALK: Okay.

7 A. There's a line -- a section here called
8 Suitable, I believe it is. Suitable coatings and inks
9 on this third page.

10 Q. (By Mr. Harris) Meaning what, sir?

11 A. If you're asking my opinion, they're listing
12 acquiesce coatings, UV coatings, varnishes, coatings and
13 inks on the base of alcohol and ethyl acetate. So
14 there -- to answer your question, would this -- do these
15 indicate flexography as well as lithography, I would say
16 yes.

17 Q. Or do you mean lithography as well as
18 flexography?

19 A. I'm differentiating -- how do you mean? How
20 are you --

21 Q. Well, I think it's mainly, you said, pointed
22 towards flexographic plates, isn't it?

23 A. Yes.

24 Q. That's the main thrust of the BASF material.
25 And the -- what you've referred to is, I guess, some

1 extra thing you can do or something you can do first? I
2 don't know which. Which and how? You've referred to
3 the inks. You've referred to the coatings and so on.

4 A. Correct.

5 Q. How is that done? What does it say? Does it
6 say lithograph? Does it say flexograph?

7 A. No, it does not say.

8 Q. Does it say flexograph or lithograph or what?

9 MR. PINKERTON: Did he have an answer in
10 there?

11 THE REPORTER: He said, no, it does not
12 say.

13 MR. PINKERTON: Oh, okay.

14 MR. HARRIS: Did he what?

15 MR. PINKERTON: He gave an answer. I
16 didn't hear it.

17 MR. HARRIS: Did he?

18 MR. WILSON: He said, no, I don't see it
19 or something like that.

20 MR. PINKERTON: Yeah.

21 Q. (By Mr. Harris) Is the reference you pointed
22 out the closest thing to perhaps suggesting lithography
23 that appears in that material?

24 A. I've got to say for one thing, I'm a little
25 confused by lithography -- your use of the word

1 lithography and flexography in that you can combine
2 the two processes on the same machine, but the two
3 processes are unique to each other.

4 Q. I understand, sir.

5 A. So when you ask does a flexography plate
6 combine flexography and lithography, then the answer
7 is no. Can the two processes be mixed, utilized at
8 the same time on a printing press, the answer is yes.

9 Q. But that's not what this BASF attachment's
10 about, is it?

11 A. It is about making flexo plates --

12 Q. Thank you.

13 A. -- that are in a round -- on this round
14 exposing unit have extremely tight registration
15 tolerances. And the only reason for that registration
16 tolerance is if you were going to use that plate for
17 printing a -- an image that has to register, has to
18 be -- has to be equal. Otherwise, this piece of
19 material, if I lay it flat and expose an image on top
20 of it, I run the risk of having what -- and I take that
21 and I put it on a cylinder and it was curved, I run the
22 risk of having distortion. If I expose it in this
23 position, which is called the round plate maker, then I
24 expose it on exactly the same diameter cylinder as a
25 printing cylinder on a Heidelberg press. So I'm going

1 to have exact registration. And that's only -- the only
2 time that's needed is when you are either printing or
3 registering an image, not just coating the whole sheet.

4 Q. Registering an image like on another image?

5 A. Right.

6 Q. Alignment?

7 A. Yes.

8 Q. Would you look at Paragraph 3 with me, please.

9 (Conference between the witness
10 and Mr. Pinkerton)

11 MR. PINKERTON: Counsel, I think the
12 witness wants to expound on his previous answer. Would
13 you like for him to do that?

14 MR. HARRIS: I'm trying to figure out what
15 his previous answer was.

16 MR. PINKERTON: Well, I think he had said
17 what documentation is as it relates to this portion of
18 Paragraph 2 that you brought his attention to. And he
19 started off by looking at the BASF materials, at Exhibit
20 B, and he's now looking at other materials. And I think
21 he's got some comments about those.

22 Q. (By Mr. Harris) Do you have some additional
23 materials that we haven't talked about?

24 A. These are in Schedule C.

25 Q. In what C?

1 A. Schedule C.

2 MR. PINKERTON: Tab C.

3 Q. (By Mr. Harris) I thought we were going down
4 here in Paragraph 3. I was coming on down to it.

5 A. Okay.

6 Q. And are you talking about this third line of
7 Paragraph 3 where it talks about a proposal from him for
8 Williamson (Exhibits C, D) in early September?

9 A. Yes.

10 Q. Is that what you're talking about?

11 A. Yes.

12 Q. Well, fine. Let's turn to those exhibits, if
13 we can.

14 MR. PINKERTON: Bill, I -- just for the
15 record, I don't want to confuse things here, but --
16 again, you said you're coming back to this Paragraph 2?

17 MR. HARRIS: Yes.

18 MR. PINKERTON: We'll just do it then.

19 MR. HARRIS: Yes.

20 MR. PINKERTON: Okay.

21 MR. HARRIS: My goodness. How many pages
22 do we have here? We have a W001269 --

23 MR. PINKERTON: 11.

24 MR. HARRIS: W001268, isn't it?

25 MR. PINKERTON: Yeah.

1 MR. HARRIS: That starts --

2 MR. PINKERTON: 1268 through 1279, uh-huh.

3 Q. (By Mr. Harris) Are you in agreement that
4 that's C?

5 A. Are you asking me?

6 Q. Yes.

7 A. That is Chapter -- or Tab C.

8 Q. And sir, what is C about?

9 A. It's about a round exposing unit and also the
10 flexo plates. They call it nyloflex. If you look on
11 W001272 under, Products and Benefits, it explains what I
12 was saying --

13 Q. Is it -- I'm sorry.

14 A. -- having to do with resolution registration.

15 Q. Does it have any reference in it or description
16 in it regarding lithography?

17 A. I'm, again, having a little trouble with
18 lithography and flexography being that lithography, to
19 me, means the transfer of an image to a blanket -- an
20 offset blanket and on to paper. And lithography and
21 lithographic plate and a flexographic plate do the same
22 thing. They put an image on a blanket.

23 Q. Isn't it a fact that the plates differ in that
24 you find recessed or raised portions on a flexographic
25 plate and you don't on a lithographic plate?

1 A. That's correct.

2 Q. And isn't it also true that in general in
3 flexography, you talk about water base, and in
4 lithography, you talk about oil base? Isn't that true?

5 A. I couldn't answer that. I'm not sure what
6 coatings are made up of.

7 Q. Would your answer be any different if I talked
8 about inks and I talked about the lithographic inks
9 being oil based and the flexographic inks being water
10 based?

11 A. -I can't answer that. I don't know the answer
12 to that question.

13 Q. So is it fair to say that there may be wrinkles
14 to flexographic printing and lithographic printing that
15 you don't know about insofar as the distinctions are
16 concerned?

17 MR. PINKERTON: Objection, form.

18 A. I don't understand your question either.

19 Q. (By Mr. Harris) Well, do you agree with me
20 that you're not an expert in the distinction between
21 lithographic printing and flexographic printing?

22 A. I'm not sure how to answer your question. I
23 would say that I am not an expert in the flexographic
24 process.

25 Q. As to the lithographic process, can you tell me

1 whether the inks are oil based or water based?

2 A. They could be oil based. They could be soy
3 based. There are water based. There are varied --
4 there are all kinds of inks. They could be all
5 different kinds of inks.

6 Q. Do you consider yourself an expert in
7 lithographic printing and the inks and apparatus
8 thereof?

9 A. Lithographic printing?

10 Q. Yes, and the inks and apparatus thereof and
11 therefore.

12 MR. PINKERTON: Objection to the form.

13 A. I'm not sure what your -- can you define
14 expert?

15 Q. (By Mr. Harris) Someone 100 miles away from
16 home with a pretty good pocket book. I don't know. One
17 is an expert or they're not an expert. I admit there is
18 matters of degree to it. The lawyers argue about it
19 these days in a case called the Daubert case. And we
20 don't know what experts are. But I know whether you
21 think you're an expert or not because of what you say.
22 And that will be interesting to put on the record
23 whether you think you're an expert or not.

24 A. Yes, sir.

25 MR. PINKERTON: Object to the form of the

1 question in terms of being vague and ambiguous for a lay
2 witness to define and term expert.

3 MR. HARRIS: Does "lay" mean he's not an
4 expert?

5 MR. PINKERTON: He's just -- he's in the
6 printing business.

7 Q. (By Mr. Harris) Not trying to put you down on
8 that, sir. I just want your view of it so I'll know how
9 to proceed in this lawsuit.

10 A. There are people who would be experts. There
11 are people who have knowledge to varying degrees and
12 then there are people who have no knowledge of the
13 process. And I would tend to put myself somewhere in
14 that category of having a degree of knowledge and being
15 somewhere on that scale.

16 Q. Reasonable summary to say somewhere in between?

17 A. Somewhere in between.

18 Q. Okay. With your degrees of knowledge in this
19 matter, you testified about flexo and you testified
20 about litho. Can you explain the difference between the
21 flexo inks and process and the litho inks and process?

22 MR. PINKERTON: Objection, form. That
23 question's vague and ambiguous and compound.

24 A. I think I answered that question. You may want
25 to check your record, but I believe it was answered.

1 Q. (By Mr. Harris) Are you able to give an answer
2 to the question?

3 A. I have knowledge of both processes to varying
4 degrees.

5 Q. I believe the question was to explain the
6 difference.

7 MR. PINKERTON: Objection to the form
8 again, asked and answered.

9 A. I believe -- I believe I've answered the
10 question.

11 Q. (By Mr. Harris) You believe if we read back
12 all of your testimony, you'd have an answer to that?

13 A. Yes, I do.

14 Q. What?

15 A. Absolutely.

16 MR. HARRIS: I'm giving some thought about
17 whether to do that or not. I hate to ask for it, but
18 let me take three or four minutes here.

19 (Recess taken)

20 Q. (By Mr. Harris) We talked earlier about, in a
21 very general sense, D paired up with C in your affidavit
22 on Line 5 of Paragraph 3. And so I want now to go to
23 Exhibit D. And what is Exhibit D?

24 A. It's a proposal from BASF to Williamson
25 Printing for a round exposing unit and also addresses

1 their plate pricing and so forth.

2 Q. And also what? I'm sorry.

3 A. Plate pricing.

4 Q. Explain to me in a little more detail what this
5 equipment is.

6 A. The equipment is a round exposing unit and
7 it -- it exposes the image from a negative transfer.
8 Transfers it from a negative to -- with light to the
9 printing plate. In this case, their brand is a nyloflex
10 flexographic plate.

11 Q. And is there any other equipment discussed
12 other than that?

13 A. Processing unit. What's called a washout
14 unit.

15 Q. A what kind of processing is it?

16 A. It's called a nyloflex washout unit. What that
17 does is processes the image to the plate.

18 Q. Can you describe that?

19 A. It's a machine which the plate's inserted into
20 the machine and the un- -- I call it the non-image area
21 of the plate is removed.

22 Q. What is the date of this purchase option?

23 MR. PINKERTON: Are we looking at
24 Exhibit C or Exhibit D at this point in time, Bill?

25 MR. HARRIS: I don't know. I think we're

1 looking at D instead of C, but --

2 THE WITNESS: I'm looking at C.

3 MR. HARRIS: It looks like what we're
4 really looking at is -- I'm mistaken. And what we're
5 really looking at is C, the last part of C.

6 MR. PINKERTON: That's what I kind of
7 gathered, too.

8 THE WITNESS: I'm looking at C.

9 MR. HARRIS: So this is the last part of
10 what we've already talked about, isn't it?

11 Q. (By Mr. Harris) Isn't this the last part that
12 you already testified to just a few moments ago?

13 A. I think we were talking about B. Now, the
14 second part of B, which was information on the round
15 exposure unit.

16 Q. Well --

17 A. And the last three pages of Section B --
18 Section C is dated October 13th, '94.

19 MR. HARRIS: Yeah. I think -- off the
20 record.

21 (Off-the-record discussion)

22 Q. (By Mr. Harris) I was treating one as another
23 section when it --

24 MR. PINKERTON: Okay. Okay. So we're
25 talking about D now?

1 MR. HARRIS: No, no. I'll go ahead and
2 cover what I hadn't covered.

3 MR. PINKERTON: Okay. On C?

4 Q. (By Mr. Harris) Now, what we really just had
5 testimony about in the appendix or attachments to your
6 affidavit I have as W001265 being the last page. Is
7 that correct? It's the last page of B?

8 A. Yes.

9 Q. Okay. Now, then, we go to C. Is C related in
10 some manner to B?

11 A. To the last three pages of B, yes.

12 Q. And what is that relation?

13 A. Both C and D are quotations and proposals for
14 the equipment described on the last three pages of
15 Section B.

16 Q. And is this a proposal from BASF?

17 A. Yes.

18 MR. PINKERTON: This being Exhibit C.

19 Q. (By Mr. Harris) This being C now?

20 A. Yes, sir.

21 Q. And what is D?

22 A. D is a preliminary pricing given to me on
23 September 6th from Domenic Coppola who is a sales -- was
24 at the time the salesperson for BASF.

25 Q. And to be clear about it, what is being

1 priced?

2 A. A round exposure unit. RB 270 is the model.

3 Q. As you generally described the ground unit
4 earlier?

5 A. Round unit.

6 Q. Round unit earlier. I'm sorry. My mouth is
7 slipping.

8 A. Yes.

9 Q. Now, what is it in these Exhibits C, D, and
10 E -- let me back off -- let me put it this way.

11 There's subject matter about a possible
12 transaction or material from BASF that's contained in B,
13 C, and D. Agreed?

14 A. Yes, and E.

15 Q. Okay. And what I would like to know is, what
16 is there about this material that causes you to believe
17 that your point in your affidavit is supported?

18 MR. PINKERTON: And can we focus on a
19 particular point in the affidavit?

20 MR. HARRIS: Where he made the point.

21 Q. (By Mr. Harris) Take 3, where you talk about C
22 and D. I see you saying, Round exposure unit for making
23 flexographic plates and received a proposal from him for
24 Williamson in early September 1994.

25 Is there something there that supports

1 the position that some disclosure was made to you by
2 Williamson --

3 A. Previous paragraph --

4 Q. -- other than what you just say?

5 A. The previous paragraph explains that.

6 Q. Well, I see Exhibit B referred to in the
7 previous paragraph.

8 A. No. If you read past that, there's an
9 explanation.

10 Q. Huh?

11 A. If you read past there, there's an explanation
12 as to why BASF is mentioned.

13 Q. Well, why don't you tell me why. Would you,
14 please.

15 A. Jesse and Bill talked about improving their
16 WIMS process and the ideas that they had about it
17 doing it with flexography. One pass being their goal.
18 They talked about add-on units, talked about other
19 ways of doing it -- doing this. Also adding maybe
20 some drying experimental drip -- inner depth drying
21 units, but they wanted a test. And that leads into they
22 wanted to test the process and then they needed to test
23 the flexographic plates from BASF for accuracy,
24 registration, and resolution.

25 Q. So then is it fair to say that the points

1 you get out of this is showing your support that
2 flexographic plates were being sought by them in or
3 around September through your efforts?

4 A. Yes.

5 Q. Do you suggest that the exhibits show anything
6 else other than that?

7 MR. PINKERTON: Object to the form of the
8 question. The exhibits will obviously support --

9 A. It's all there.

10 Q. (By Mr. Harris) Is that a complete statement,
11 what you make in Paragraph 3, I guess, is my point. Is
12 that what you attached these materials for, to show that
13 flexographic plates were being ordered or at least a
14 proposal was being obtained for them -- for Williamson
15 in early September of '94? Is there anything further
16 that you believe is shown?

17 MR. PINKERTON: Object to the form. It's
18 vague and ambiguous.

19 A. I have to agree with that.

20 Q. (By Mr. Harris) What?

21 A. I'd have to agree with counsel. Vague and
22 ambiguous statement.

23 Q. You don't know what I'm talking about?

24 A. I refer to my statement here.

25 Q. Is that the point of having these attached to

1 your statement under Paragraph 3?

2 A. Yes.

3 MR. PINKERTON: Object as to form.

4 Q. (By Mr. Harris) And then all I was asking is,
5 is there some other thing that I'm missing? Is there
6 some other thing that they're supposed to show other
7 than what you say in Paragraph 3?

8 MR. PINKERTON: I'm going to object to
9 form because I don't know that he's going to know what
10 you might be missing, Bill.

11 MR. HARRIS: I hope it's here.

12 A. I don't believe there's anything missing.

13 Q. (By Mr. Harris) Okay. Then I won't look for
14 any additional snakes in there. And does this early
15 September reference assist you in putting a date in when
16 you had this explanation from Jesse Williamson and Bill
17 Davis about their intention to improve the existing WIMS
18 process?

19 A. No. As my statement says, I believe that was
20 more in late spring of '94. And August, more in -- we
21 were having conversations about the -- what we'll call
22 the LYL Heidelberg machine as early as late spring. And
23 then in -- so it's talked about at that time and then
24 also in August, around the time of this letter, this
25 August 5th letter.

1 Q. Is there a boil down -- what was that answer?

2 A. What was the question?

3 Q. The question was, did it help you any -- from
4 the early September date that was on this exhibit
5 leading to BASF, did it help you any to date when you
6 had an explanation from Jesse Williamson and Bill Davis
7 that they intended to improve the existing WIMS
8 process?

9 A. No. I believe that the August 5th letter,
10 Tab B, Paragraph, 3 into -- better date, better support
11 that we'd discussed it even before August 5th.

12 Q. What is there in Paragraph 3 that -- what is it
13 in Paragraph 3 that causes you to believe that?

14 A. In Paragraph 2 and 3, we're talking about a
15 six color press that has a triple tower configuration
16 to coating units. Then Paragraph 3 discusses going
17 to a demo and seeing one of these machines with the
18 chambered -- which had the chambered doctor blade system
19 in Canada, in Montreal. That was subsequently done. So
20 the --

21 Q. How does that tell you that? How does that
22 give you that information?

23 A. We agree with your suggestion not to place
24 the order for this unit until after we have had our
25 demonstration at Interglobe Printing in Montreal,

1 Canada. The reasons for going to Montreal were
2 twofold. One was the chambered doctor blade system --
3 anilox system, and two was to see the gloss levels of
4 UV coating.

5 Q. Of what kind of coating?

6 A. Ultraviolet, UV.

7 Q. Was it anticipated that flexographic printing
8 would take place there?

9 A. Oh, yes, spot coating in this particular --

10 Q. And that spot coating would be done with those
11 coating towers?

12 A. Yes.

13 Q. So this really isn't about flexographic coating
14 up front as far as this particular item's concerned, is
15 it?

16 A. It's about the registration, accuracy, and the
17 coating level, distribution level of the anilox
18 chambered doctor blade system, which was being explored
19 for the printing process.

20 MR. HARRIS: Would you repeat my
21 question.

22 Q. (By Mr. Harris) I'm not sure you answered my
23 question. I think you gave me an alternative statement.

24 (Requested text read)

25 A. I think I answered that.

1 Q. (By Mr. Harris) I think what you did is
2 tell me what it was about. And I asked you, I believe,
3 what it wasn't about. And do you agree with me on the
4 statement of what I said it wasn't about?

5 MR. PINKERTON: Objection as to form,
6 vague and ambiguous.

7 What did you say?

8 MR. HARRIS: Read it back one more time
9 what I said back when.

10 (Requested text read)

11 A. I believe I answered your question.

12 Q. (By Mr. Harris) What?

13 A. I believe I answered your question.

14 Q. I don't believe you did. I'm asking you if
15 there was flexographic coating in a press system up
16 toward the front of the press in Montreal or planned for
17 Montreal?

18 A. This is a new question.

19 Q. Well, and maybe it's a better one. Let's see
20 if we can do something with it.

21 A. Not to my knowledge, there was not.

22 Q. Okay.

23 MR. PINKERTON: That was a much better
24 question, Bill. I like that one.

25 MR. HARRIS: You liked that one?

1 MR. PINKERTON: Much clearer.

2 MR. HARRIS: I formulated it for you,

3 John.

4 Q. (By Mr. Harris) You made reference to Item 2
5 in that letter. What is there about Item 2 that
6 particularly jogs your memory or says something to you
7 about when you got an explanation from Jesse Williamson
8 and Bill Davis about intent to improve the existing WIMS
9 process?

10 A. What jogs my memory is that what's being
11 discussed here is the six color triple tower, double
12 coater press, which includes the anilox chambered doctor
13 system. There -- the last sentence of the last -- the
14 tail end of the sentence talked about there not being
15 one of these presses available for five or six months.
16 And Williamson says, We agree to substitute the six
17 color triple tower coater, double coater press for the
18 first eight color press we had originally ordered in the
19 first press order. And so what this is telling me is
20 that there already existed an order for the triple tower
21 machine. It had been discussed and come to the point of
22 here saying, you can't get us one for five to six
23 months, so let's go ahead and deliver an eight color in
24 the meantime.

25 MR. PINKERTON: You mean the six color?

1 THE WITNESS: Yeah.

2 MR. PINKERTON: I, just for the record --

3 MR. HARRIS: Six.

4 MR. PINKERTON: Yeah. He said eight. I
5 think he meant six.

6 MR. HARRIS: It's okay with me.

7 MR. PINKERTON: Okay.

8 A. I had that backwards.

9 Q. (By Mr. Harris) Is there something under
10 that 2 about flexographic painting -- printing --
11 flexographic printing?

12 A. Not specifically there in Paragraph 2, no.

13 Q. Well, now, then in summary, what is there about
14 2 and the 3 that made you think that the Williamsons --
15 that Jesse Williamson and Bill Davis had explained this
16 intent to improve the existing WIMS process? Not
17 according to what they did or didn't do. I want to know
18 right now what there is about these two paragraphs that
19 caused you to believe that you can date when they had a
20 conversation or a contact with you.

21 A. You've already asked that. I'll answer it
22 again.

23 Q. Okay.

24 A. And I've answered it.

25 Q. I appreciate that.

1 A. Paragraphs 2 and 3 both are discussing a press
2 with the anilox chambered doctor blade system. And that
3 subject covered both coating, but also this flexographic
4 process for coating as well as metallic dispersion
5 coatings of gold and silver, bronze, all kinds of
6 applications.

7 Q. Are you telling me included in them were a
8 number of things?

9 A. These two paragraphs?

10 Q. Yes. They covered a number of things insofar
11 as what could be done by this -- well, let me just kill
12 all that and start over again.

13 I was trying to find out what helped you
14 date a conversation or a contact. Do you recall that?

15 A. Uh-huh.

16 Q. And in so doing, I've asked about Paragraphs 2
17 and 3 because you had made reference to them. And I
18 understand that the doctor blade system has something to
19 do with that apparently. Now, just what is it?

20 A. It -- what is the system?

21 Q. Yeah. What is it that chambered doctor blade
22 has to do with reminding you of such a conversation or
23 contact with Mr. Davis and Mr. Jesse Williamson?

24 A. They as -- they wanted to see Heidelberg's
25 chambered doctor blade system and to be able to analyze

1 it for the several reasons that I mentioned before, the
2 coatings, but also for dispersion coatings and
3 metallics. And I think we even did testing with some
4 pigmented coatings, color coatings.

5 Q. Where was the doctor blade unit mounted?

6 A. On which press?

7 MR. PINKERTON: Object to form.

8 Q. (By Mr. Harris) In the Montreal system.

9 A. On the two coating units.

10 Q. That's at the rear end of the press, is it
11 not?

12 A. Yes.

13 Q. So there's nothing about 2 and 3 that
14 specifically suggests the front end of the press
15 for doctor blades or anything else, is there?

16 MR. PINKERTON: Objection, leading.

17 A. There is not a direct reference. However, the
18 statement in Paragraph 3, We agree with your suggestion
19 not to place an order for this unit until after we have
20 had our demonstration at Interglobe Montreal, Canada and
21 after having received a presentation from the
22 manufacturer.

23 There's -- in that, our suggestion was
24 test this system for your uses -- your intended uses.
25 And that was -- Montreal was the first test for that.

1 Q. (By Mr. Harris) Were you there?

2 A. No.

3 Q. Did you get a report?

4 A. Not written. Verbal report.

5 Q. What was the sense of the report?

6 A. That the chambered doctor anilox roller system
7 appeared to do -- to down the thicknesses of coatings
8 and volume and -- that they would need and that the
9 coating plates, the flexographic plates that were used,
10 however, did not fit well, which led into the round
11 exposing unit.

12 Q. Led into what?

13 A. Led into exploring the round exposing unit,
14 which greatly improves the flexographic plates'
15 registration and resolution.

16 Q. I thought you were checking into the round
17 plates well before Montreal. What I'm reading makes me
18 think that --

19 A. September 6th was roughly the time frame of my
20 first inquiry --

21 Q. Yeah.

22 A. -- to BASF.

23 Q. And when was the Montreal thing?

24 A. That was --

25 Q. Why don't you try Exhibit E and see if it

1 helps. I'm not sure that it's clear. But if it is,
2 though, please tell me.

3 A. Montreal, November 3rd, 1994. I find that on
4 Section E, W001282.

5 Q. So that had you checking into the round plates
6 really before the event instead of after it, didn't it?

7 A. Yes.

8 Q. Do you know why?

9 A. The reason is we knew -- I'll say we, as
10 Heidelberg people, as well as Williamson people, knew
11 that the computer interpolation of round distortion is
12 not accurate. And the Montreal trip confirmed that. So
13 our search began looking at people who were having to
14 make plates that registered well. And the feedback that
15 we got from our factory as well as -- if you'll notice
16 in the letter dated October 17th, Point 6 points out
17 that we, the Heidelberg Factory, uses the round exposure
18 unit for demonstration for printers around the world and
19 cannot be without this unit.

20 This is the -- if you look at Paragraph 2,
21 it references the spot coating register, again, the
22 registration issue that occurred in Montreal. And --

23 Q. Paragraph 2 of which letter?

24 A. October 17 letter, Section E.

25 Q. Uh-huh. I have it. Section what? Tab E?

1 MR. PINKERTON: Tab E.

2 MR. HARRIS: Tab E.

3 Q. (By Mr. Harris) Well, I have Tab E and I have
4 the October 17 letter.

5 A. Paragraph 2.

6 Q. So when we get beyond registration and plates
7 and we come to -- just a minute now. I'm just about to
8 skip something. What significance does the October
9 26th, 1994 letter under Tab F have to you?

10 A. This is -- in 1995, what we call DRUPA, we had
11 design changes being made to our presses. Now, the six
12 color triple tower coater machine is scheduled -- was
13 scheduled to ship December '94. Meaning that it would
14 not have the updates, design changes that would be
15 forthcoming in May. It says third quarter here in '95.
16 And then John Dowey, who wrote this letter, the last
17 paragraph refers to December 10th -- week of December
18 10th trip to demonstrate the chambered doctor system for
19 coating and to give private showing of the DRUPA
20 design. Those -- that's referring -- that didn't
21 actually happen, I think, until January.

22 Q. It was put off, wasn't it?

23 A. Right.

24 Q. Well, what -- to you, is there any special
25 significance of that letter other than just what's

1 said?

2 MR. PINKERTON: Object as to form.

3 Q. (By Mr. Harris) With respect to your
4 affidavit, does it have any special significance?

5 A. The significance in my affidavit --

6 Q. Yeah.

7 A. -- is that it referred to the original
8 December 10th date -- original date and followed up
9 with --

10 Q. This January date, I don't have it before me.

11 A. January 20 through 21st. So significance had
12 to do with the chambered doctor blade system and that we
13 were going to test in Heidelberg.

14 Q. Okay. Let's take a look at G because it's
15 here. And that's really more of the same thing, isn't
16 it?

17 MR. PINKERTON: Object to form.

18 Q. (By Mr. Harris) That's November 8, Heidelberg
19 to Bob Boyer. I have it under Tab G. I take no
20 responsibility for tab numbers.

21 MR. PINKERTON: Yeah. Two letters under
22 Tab G, November 8 and November 7. One letter, one memo,
23 I guess.

24 MR. HARRIS: Yeah. I really hadn't said
25 anything about it yet, but I agree with you.

1 Q. (By Mr. Harris) My question's simple enough.
2 Under G, the document, W001287?

3 A. Uh-huh.

4 Q. Dear Jerry and Jesse of November 8th, '94 from
5 Bob Boyer. What --

6 A. From Bob.

7 Q. -- significance --

8 A. Okay.

9 Q. Huh?

10 A. Go ahead. I'm just making sure I'm on the
11 right page.

12 Q. What significance does that document have to
13 you as it relates to your affidavit?

14 A. Pointing toward the testing of both the flexo
15 plates and the chambered doctor system is note worthy.
16 That's --

17 Q. Is what?

18 A. That is -- that and also some -- the desire to
19 be able to have special clamps, plate clamps put on the
20 press so that they can register the image in a better
21 way. They had more -- more registration capabilities.

22 Q. And the letter's generalized as to the --
23 exactly how the plates would be used and the clamps
24 would be used except for the fact that it appears they
25 would be used in conjunction with the coating tower,

1 doesn't it?

2 A. Yes. You would need to retrofit a particular
3 unit.

4 Q. And the chambered doctor system would also be
5 on the coating tower, wouldn't it?

6 A. Not normally.

7 Q. Huh?

8 A. Not normally.

9 Q. But it says so right here, though, doesn't it,
10 in the letter?

11 A. No, it doesn't say that.

12 Q. Third line, what does it say? Chambered doctor
13 system for the coating tower.

14 A. It doesn't say it's normally on a machine.
15 It's --

16 Q. Well, that --

17 A. -- abnormal.

18 Q. Let me ask you if in this letter it doesn't say
19 that the chambered doctor system for the coating tower.
20 And what you're telling me is that a lot of coating
21 towers don't have doctor systems?

22 A. Yes, that's correct.

23 Q. Isn't that what you're correcting me on?

24 A. Yes.

25 Q. Okay. I consider myself corrected. All I'm

1 trying to find out from you is that's the location
2 that's -- this letter is considering for the coating
3 tower, is it not? That is --

4 A. Yes. I --

5 Q. -- for the chambered doctor system for the
6 coating tower?

7 A. Yes. I answered that question.

8 Q. Yes. And then still in this letter, it's
9 thought about the date for the German trip to be
10 December 10, right?

11 A. Yes.

12 Q. And then you come over to the next page in the
13 same exhibit number or appendix condition -- and that's
14 G, second page, W001286. And it's related basically to
15 the same topic, isn't it, as the prior letter?

16 A. Yes.

17 Q. And then I come to a group of calendars on --
18 calendar pages --

19 A. Uh-huh.

20 Q. -- under Exhibit H. And I trust that's your
21 calendar?

22 A. Yes, it is.

23 Q. Now, you'll have to help me on dates because
24 there's not a single date I can read on a single one.

25 A. We've got the original or not?

1 Q. Let me hold off on what I just said.

2 A. It's normally up in the upper right corner.

3 Q. I've been given a copy.

4 MR. WILSON: It's another bad xerox. I
5 think this is Exhibit 3. This is out of the copy that
6 Mr. Pinkerton brought earlier that has the dates on it.

7 MR. HARRIS: Thank you, Mr. Pinkerton.

8 (Exhibit 3 marked)

9 MR. PINKERTON: See, we've got on the
10 record that that's a copy of Tab H --

11 THE WITNESS: Yes.

12 MR. PINKERTON: -- to Exhibit 2.

13 MR. HARRIS: Yes. We had to find a better
14 original or copy in order to make that copy.

15 MR. PINKERTON: Yes.

16 MR. HARRIS: That's true.

17 Q. (By Mr. Harris) And referring to that
18 exhibit -- is what has become Exhibit 3?

19 MR. PINKERTON: Right. We've marked it as
20 Exhibit 3.

21 Q. (By Mr. Harris) Exhibit 3, just to sort of
22 tickle your memory, tell me something that I'm just
23 dying to know. I would like to know what you had for
24 lunch at the company's cafe.

25 A. Which day?

1 Q. Don't read it. It's not fair to read it.

2 A. Salmon.

3 Q. There were some other things that were there,
4 too. What else was there in the way of food?

5 A. We had dessert that was cleverly disguised as a
6 salad. You thought you were biting into a tomato and it
7 was a sorbet.

8 Q. Ice cream shaped?

9 A. Uh-huh. There was, oh, slice of avocado that
10 turned out to be pistachio ice cream. That's the meal I
11 had.

12 Q. Looks like to me they were just trying to fool
13 the passenger, but they were giving them something
14 good?

15 A. Uh-huh.

16 Q. It's actually a company cafe, wasn't it?

17 A. It's a -- called the Casino. Chef there for --
18 at all times for visits -- visitors.

19 Q. Would you quickly give me a rundown on who
20 Michael Yates is and Steve Clark and the company they're
21 with.

22 A. Most of the fellows are from Wolstenholme, an
23 English company.

24 Q. What do they make? Are they in the inks
25 business or what?

1 A. Well, they make -- well, I don't know if they
2 make inks, but I know they make the powders or the
3 granulated metals, gold, silver, bronze. I don't know
4 if they make -- put those in the inks and sell them or
5 if they sell their powders to ink companies. I'm really
6 not sure about that ink.

7 Q. And the two Williamsons and Bill Davis were
8 directing the tests; is that true?

9 A. Primarily Jesse and Bill Davis.

10 Q. And Peter Schwaab and Reginald Retting and
11 Klaus Sauer, who are those people?

12 A. Those are all Heidelbergers.

13 Q. Do you really call them Heidelbergers?

14 A. Yeah. The town's name is Heidelberg, so --

15 Q. I see.

16 A. They -- it's like being a Dallasite or a
17 New Yorker. Klaus was our lead press demonstrator.

18 Q. Was what?

19 A. Our lead press demonstrator. And --

20 Q. He was from Heidelberg -- and I can't say the
21 next one. Drucksmaschinen or what is it?

22 A. Drucksmaschinen, uh-huh.

23 Q. A.G.?

24 A. Yes.

25 Q. And that's the German Heidelberg company?

1 A. Yes.

2 Q. And what was his position with the company?

3 A. Klaus?

4 Q. Uh-huh.

5 A. Klaus was the lead press demonstrator.

6 Q. And Bob Boyer, your supervisor, huh?

7 A. Yes.

8 Q. Is he with the company anymore?

9 A. Yes.

10 Q. What does he do now?

11 A. He is vice president of sales, south region,

12 Kennesaw, Georgia.

13 Q. Do you have any kind of an office? And by

14 "you," I mean, the office in New York City.

15 A. Actually in Jersey.

16 Q. What?

17 A. It's actually in Jersey. At -- for 40 years up

18 until 1995, the headquarters -- national headquarters

19 was in New York City.

20 Q. That explains my confusion on it. Now, then,

21 what was the test that was run under this Paragraph 4?

22 Tell me in as much detail as you can.

23 A. Tests were -- well, there were several

24 different -- a couple of different forms, as I've

25 stated. Some -- there was images of a lot of things

1 with metal, photograph of -- one was a photograph of a
2 car on a wet cobblestone street that -- some stochastic
3 test patterns, some dots-per-inch scales. And on the
4 test, Rolex watch, and all of those things were -- and
5 all the way -- some scale of type from very large font
6 down to, at one point, the tiniest, hard to see with the
7 eye type to see how well the chambered doctor blade
8 system and the plates would work in conjunction with the
9 metal dispersion coatings, the golds, the silvers, and
10 so forth.

11 Q. What specifically was done to obtain these
12 materials that you've described?

13 A. To obtain --

14 Q. Products, you can call them, whatever. What
15 was done in the way of process or equipment in order to
16 obtain them?

17 A. Oh, well, we have paper on hand at our
18 facility.

19 Q. Right.

20 A. We have inks on hand. Wolstenholme provided
21 the metallics.

22 Q. Gold, silver, both, what?

23 A. Gold and silver.

24 Q. And water based, or were they oil based?

25 A. I couldn't tell you that.

1 Q. Okay.

2 A. I don't know that. You asked about now. And
3 we had plates made -- flexographic plates made on the
4 BASF round exposing unit. We ran the test. Took the
5 better part -- all of two days, maybe three -- two. We
6 ran one pass. We put down in -- through the anilox
7 roller, we put down the gold.

8 Q. How many stations did you have? Let me break
9 in so I get this in mind as you're explaining.

10 A. How many stations?

11 Q. Yes, printing stations.

12 A. There were five, I believe.

13 Q. Okay.

14 A. Plus a coating unit.

15 Q. And where did you position the plates,
16 flexographic plates?

17 A. On the coating unit.

18 Q. That was at the back of the press unit?

19 A. Right.

20 Q. Okay. And then what happened?

21 A. We ran blank through the press and printed only
22 with the coating unit with the flexo plate. Printed
23 either the gold or the silver and by -- and then let
24 that dry and came back through with the process colors
25 of black, blue, red, and yellow. So we were simulating,

1 putting down the metallics first in the process after
2 that.

3 Q. Was it your belief that's the first time that
4 had ever been done?

5 A. That --

6 Q. What you just described?

7 A. -- particular test?

8 Q. Yes. Maybe not with five units. It might be
9 with more or less, but the idea?

10 A. The idea of doing -- of -- yes, putting the
11 dispersion -- the metallics through the anilox system
12 is the first time I know of it. But the process of
13 printing with the four process colors and gold and
14 silver had been done before --

15 Q. Uh-huh.

16 A. -- through the printing units. So to answer
17 your question, but, to my knowledge, this is the first
18 time that we were able to simulate for the Williamsons.

19 Q. Was that because of the doctor system you were
20 talking to me about?

21 MR. PINKERTON: Objection to form.

22 A. It's a combination.

23 MR. PINKERTON: Hold on.

24 A. It's a combination of --

25 Q. (By Mr. Harris) Well, isn't that the only

1 thing that you distinguish from the past?

2 MR. PINKERTON: Objection to form.

3 A. No.

4 Q. (By Mr. Harris) Help me and do it then.

5 A. I was fixing --

6 Q. Go into more detail.

7 A. -- to before you interrupted me.

8 Q. I'm sorry. I didn't mean to interrupt you.

9 Now please do it.

10 A. Okay. There was what was involved the round
11 exposing unit. It involved the new flexographic plate,
12 which was new technology. And it involved the anilox
13 system.

14 Q. Well, was the -- if I may talk about an
15 addition, that would be the anilox system to what
16 had been perhaps done before?

17 MR. PINKERTON: Objection.

18 Q. (By Mr. Harris) Did I not understand you to
19 say that in the past, well, the colors had been run and
20 the flexographic step had been taken in two passes?

21 MR. PINKERTON: Objection as to form.

22 And I think that that mischaracterizes his previous
23 testimony.

24 MR. HARRIS: Well, it may have been
25 backwards.

1 A. I'm not sure what you're -- what your question
2 is.

3 Q. (By Mr. Harris) What had you said had been
4 done before? Let's start all over again on this one.

5 A. What had been done before was printing gold and
6 silver or gold or silver in line with process colors,
7 which are black, blue, red, and yellow. That had been
8 done with conventional plates. And in terms of -- and
9 then you made the assertion that the anilox roller
10 system was the only thing tested at this time.

11 Q. Not tested, added. Distinguishing --

12 A. Yes, and I disagree with that.

13 Q. Okay. Well, what was different, then, besides
14 the anilox system was used?

15 MR. PINKERTON: Object to the form of the
16 question. And I also object to -- I don't know the full
17 extent of your question, Bill, but from a patentable
18 distinction, I certainly think this witness is not
19 qualified. And I don't think you're asking the --

20 MR. HARRIS: I'm not asking a patent
21 question.

22 MR. PINKERTON: Okay.

23 A. What I see to be distinguishable is the anilox
24 roller system chambered doctor blade, the round exposure
25 unit, and the plate material itself. This plate --

1 Q. (By Mr. Harris) Uh-huh.

2 A. -- was different, was new because it had a --
3 an aluminum backing to it. Historically, flexo plates
4 do not. They're like a piece of rubber. This metal
5 added the measured stability that we were looking for,
6 that everybody was looking for for registration and
7 resolution.

8 Q. At that time, was there discussion about how
9 you might go about moving the coater apparatus up front
10 to do the -- to do the flexographic step first at that
11 time?

12 A. Yeah. I mean, that was -- at that time,
13 the idea was test the theory by two passes with --
14 always the idea you had the -- the idea had to be,
15 you can't lay opaque colors over a trans- -- over the
16 transparent. So the gold or silver being opaque has
17 to go down first.

18 Q. Okay.

19 A. So it was always the idea somehow to be able to
20 lay down those colors in the first two units.

21 Q. Well, did the group of you discuss a specific
22 way you were proposed to do that while you were at that
23 test?

24 MR. PINKERTON: Object as to form.

25 A. Not that I recall.

1 MR. HARRIS: I'd like to take a break
2 again.

3 MR. PINKERTON: Okay. Good timing.

4 (Recess taken)

5 Q. (By Mr. Harris) The attached documents to your
6 declaration were gathered by someone. Did you gather
7 them?

8 A. Yes.

9 Q. How did you go about it?

10 A. Went to my files.

11 Q. What tests did you use to decide what was a
12 helpful document or one you wanted and what wasn't?

13 A. I brought what I thought pertained to anything
14 to do with the anilox roller system or WIMS or the print
15 testing that we did.

16 Q. Let me direct your attention to Paragraph 5 of
17 your declaration.

18 A. Uh-huh.

19 Q. In Paragraph 5, starting on the bottom of the
20 page, Finally some test-type patterns, getting ready to
21 turn, all configured on one approximate 25 inch by 38
22 inch sheet to be run through the press, first with one
23 or more flexography runs using an anilox roller and the
24 flexographic plates made from the BASF equipment
25 previously mentioned, and followed up by an offset

1 lithography.

2 My question to you is simple. Why did you
3 not do that in one pass?

4 A. Because as is stated here, the anilox roller in
5 that system was on the coating unit at the end of the
6 press.

7 Q. For what reason? You'd agree with me that it
8 could have been put somewhere else?

9 A. No.

10 Q. It couldn't have been, could it?

11 A. No, not that I know of.

12 Q. Was there not equipment available by which you
13 could do it with one pass?

14 A. Not from Heidelberg.

15 Q. What?

16 A. Not from Heidelberg.

17 Q. Was there anywhere that you're aware of?

18 A. Not that I'm aware of.

19 Q. Do you want to give me some hearsay that
20 somebody else is aware of?

21 A. I know that there are several companies that
22 have been involved in aftermarket coating units. I'm
23 not an expert on those, but among them are Doggren,
24 Epic, Rykaline, I believe is a name, and Printing
25 Research.

1 Q. In that same paragraph, and backing up, oh,
2 again to Page 3 at the first you say, The day-long tests
3 on January 20, 1995 involved comparisons of the results
4 of the new WIMS improved process over the old process.

5 A. Yes.

6 Q. Explain the new process to me.

7 A. The new process was putting the metallics down
8 with a chambered doctor blade anilox system being able
9 to use a larger grain --

10 Q. Uh-huh.

11 A. -- and getting more material on the sheet.

12 Q. Was the new WIMS process then run, as you say
13 in Germany at that time?

14 A. It was simulated.

15 Q. What do you mean "it was stimulated"? It was
16 running or it wasn't? What do you mean "simulated"?

17 A. Okay. It was running.

18 MR. PINKERTON: Object to the form of that
19 question.

20 Q. (By Mr. Harris) You say it was run. Is that
21 what the WIMS project was, what was done in Germany?

22 MR. PINKERTON: Objection as to form,
23 vague, ambiguous, confusing as to what process you're
24 talking about. What was run when?

25 MR. HARRIS: John, you're the only one

1 confused.

2 MR. PINKERTON: Maybe.

3 A. No, that wouldn't be true.

4 MR. PINKERTON: He's already explained --
5 he's already answered that question.

6 MR. HARRIS: Why don't you let him think
7 about it.

8 MR. PINKERTON: Okay.

9 Q. (By Mr. Harris) I'm just trying to find out if
10 what was run was the new WIMS process. It says so
11 here. Was it?

12 A. I haven't -- I have not seen the patent for the
13 process.

14 Q. Okay.

15 A. So I can't comment as to the ins and outs of
16 that entire process.

17 Q. With my heart, let me represent to you that
18 the name of the patent isn't the new WIMS process.

19 A. That doesn't tell me anything.

20 Q. Well, it tells you the patent probably wouldn't
21 tell you anything. If you want to see it, we'll be
22 happy to let you have it.

23 A. What I can tell you is what is in my statement
24 here.

25 Q. Yeah.

1 A. There were sheets brought that were run with
2 the metallics -- with the original WIMS process with
3 metallic inks run in-line inks. And I don't know when
4 they were run. I don't know where they were run or
5 anything else. And what we did was simulate by printing
6 first the gold and/or silver first and then putting the
7 process colors over that. That is a simulation of
8 in-line printing of the coating -- the gold or silver
9 end process colors.

10 Q. Now, I ask, again, why that wasn't done. With
11 all those people there and all the investment made, why
12 was that not done, if the process existed?

13 MR. PINKERTON: Object to form. Object as
14 vague and indefinite. Also object as previously
15 answered, to the extent I understand the question.

16 A. I believe I just answered that.

17 Q. (By Mr. Harris) I'll have to confess I didn't
18 understand your answer as being one to that question,
19 and I may have misunderstood. The law doesn't prohibit
20 asking a question twice. And I don't think -- I think
21 I'm on four or five times. So please, even if it's
22 twice, answer the question.

23 A. Ask it again.

24 Q. Okay.

25 MR. HARRIS: Would you read it back.

1 (Requested text read)

2 A. And my answer to that question is we just had a
3 discussion answering that question. The process was
4 simulated.

5 Q. (By Mr. Harris) What do you mean by
6 "simulated"? And what process was simulated?

7 MR. PINKERTON: Object, again, as having
8 been asked and answered.

9 MR. HARRIS: That's two. I'll do one at a
10 time.

11 Q. (By Mr. Harris) What do you mean by
12 simulated?

13 MR. PINKERTON: Bill, he's already
14 answered that now a couple of times. I don't mean to
15 be obstreperous, but he's testified about that.

16 MR. HARRIS: Well, I'm sure he's trying to
17 testify about it and maybe very well, but I'm asking.

18 A. We simulated the -- I'm going to call it the
19 new WIMS process. Does anybody object to that?

20 Q. (By Mr. Harris) If you want to call it that,
21 I'll ask you what you think it is in a minute. And
22 subject to that, it's perfectly fine to call it that.

23 A. In my statement, I called it the new WIMS
24 improved process --

25 Q. You did.

1 A. -- over the old process.

2 Q. Yes.

3 A. We simulated and tested that new process by
4 putting down metallics first. By running the sheet
5 through the press, not printing on it until it was
6 printed on with the metallics. So the sheet came out
7 of the end of the press and all it had on it was gold
8 and -- gold or silver. That sheet dried. And then we
9 put it back in the front of the press, ran it back
10 through, and put it on black, blue, red, and yellow.
11 That is a simulation of running and putting down the
12 gold first and then process colors throughout the
13 press.

14 Q. Is that what you called it over there,
15 simulation?

16 A. I don't recall.

17 Q. Is that your terminology?

18 A. It was a test. I would use the word test.

19 Q. Is simulated your terminology or Mr. Falk's?

20 A. That's my terminology, my assessment, my
21 terminology.

22 Q. You adopted that terminology?

23 A. Yes.

24 Q. I'd indicated -- I think I understand that.

25 And I indicated a moment ago I would be asking you what

1 you mean by the new WIMS process. We have handled the
2 simulated part. Okay?

3 A. Uh-huh.

4 Q. What do you mean by the new WIMS process?

5 MR. PINKERTON: That's also been --

6 MR. HARRIS: I don't care about patents or
7 anything here.

8 MR. PINKERTON: It's also been asked and
9 answered before, but go ahead.

10 A. I'll say, again, that the original process --

11 MR. PINKERTON: Just focus on the
12 question. He's asking about the new process.

13 MR. HARRIS: That's true. The new WIMS
14 process.

15 A. The new process involved the use of the
16 chambered doctor blade system, the flexographic plates,
17 and dispersion coatings versus or flexographic -- I'm --
18 the term that I recall was dispersion coatings that had
19 metallics -- particles in it. And that's how I would
20 describe it.

21 Q. (By Mr. Harris) That's what?

22 A. I would describe it that way. And that those
23 metallics were to be printed first.

24 Q. By what means?

25 A. Chambered doctor blade with a flexographic

1 plate.

2 Q. Was -- were you informed of or did you think of
3 a way back in August of -- back in August of '95 or at
4 any other time to accomplish that purpose of doing it
5 first -- '94. Yeah, August of '94. I'm going to start
6 over.

7 In August of '94 or anytime before or
8 after, did you think of a way to practice the process we
9 just described -- you just described? Did you think of
10 a way to practice it?

11 A. Would you accept simulated?

12 Q. Well, simulated, if that's all you know.

13 A. Then --

14 Q. I can't accept something you hadn't got.

15 A. Then my answer would be it was not my original
16 thought. It did not originate with me, but the thought
17 existed of simulating this process.

18 Q. Well, let's go back to the fact that it didn't
19 originate with you. I believe it probably originated as
20 far as you're concerned and from your affidavit with
21 Mr. or Dr. Davis --

22 MR. PINKERTON: Just Bill Davis.

23 MR. HARRIS: I'm going to find out. Is it
24 Dr. Davis? No.

25 MR. PINKERTON: No.

1 MR. DAVIS: No, sir.

2 MR. PINKERTON: Just Bill Davis.

3 MR. HARRIS: All right.

4 MR. PINKERTON: And Jesse Williamson.

5 MR. HARRIS: All right. Let it be that
6 way.

7 Q. (By Mr. Harris) From Mr. Davis or Jesse
8 Williamson, what did you find out from them that they
9 had in mind as a way to practice this method?

10 MR. PINKERTON: Again, we're talking about
11 that time frame -- you want to put that time frame?

12 MR. HARRIS: Yeah. The time frame I
13 have in mind is -- I suppose the first time that -- in
14 1964 --

15 MR. PINKERTON: '94.

16 MR. HARRIS: -- 1994.

17 MR. PINKERTON: August '94 that we
18 previously talked about?

19 MR. HARRIS: I don't want to limit it to
20 August of '94.

21 A. I was still a swimmer in '64.

22 Q. (By Mr. Harris) Well, in '94 or '95, whenever
23 Mr. Davis and Mr. Williamson were talking with you about
24 the process. What I would like to know is, did they
25 tell you how to practice it?

1 MR. PINKERTON: I think it's --

2 MR. HARRIS: Wait a minute.

3 MR. PINKERTON: Well, I --

4 MR. HARRIS: Now, please don't coach this
5 witness.

6 MR. PINKERTON: I'm not going to coach
7 him, but it's a subject -- I want -- you know, I won't
8 mention it.

9 A. Are you asking if Bill and Jesse gave direction
10 for -- during this test?

11 Q. (By Mr. Harris) No. Bill and Jesse, you told
12 me, were at the test. I'm going back to an earlier
13 date. As early as, I believe, you said around August
14 1994 when Mr. Williamson and Mr. Davis explained to you
15 the existing WIMS process and indicated several methods
16 that they might use for the practice of a new process.
17 And I'm asking you if they told you how they would
18 practice the method.

19 A. The test originated with Jesse and Bill, and,
20 yes, they told us why we were going to Germany to test.

21 MR. HARRIS: There's something -- do you
22 want to tell me what you've got on your mind?

23 MR. PINKERTON: No, but he's not
24 communicating with you.

25 MR. HARRIS: I'm trying to get back to

1 August.

2 MR. PINKERTON: He's thinking you're still
3 focusing on the test back in '95 and you're back in
4 August of '94.

5 Q. (By Mr. Harris) I'm in August of '94, whenever
6 it was that the discussion took place.

7 MR. PINKERTON: Right.

8 MR. HARRIS: That's when it is I'm to.

9 Q. (By Mr. Harris) It's really in your
10 Paragraph 2.

11 A. Okay. I'm in the right time frame now. I'm in
12 spring and summer of '94. And you're asking --

13 Q. Just showing up at work?

14 A. And you're asking if Jesse and Bill told me --

15 Q. How to practice the new process that they were
16 describing to you.

17 MR. PINKERTON: And he's not asking about
18 the test. He's saying --

19 Q. (By Mr. Harris) How to practice the process.

20 MR. PINKERTON: Object to the form of that
21 question with regard to practice the process. I'm not
22 sure he understands that, but --

23 A. There was -- there was discussions about how --
24 ideas they had of how to do -- how to accomplish the
25 process.

1 Q. (By Mr. Harris) And what were those ideas and
2 discussions?

3 A. Well, as I -- it was as my declaration says --

4 Q. Please don't read from the declaration. Tell
5 me.

6 A. It says that --

7 Q. Please don't read from the declaration. Tell
8 me.

9 A. -- Jesse Williamson and Bill Davis.

10 MR. HARRIS: Let the record reflect that
11 the witness is reading from his declaration and not able
12 to tell me.

13 MR. PINKERTON: Well, he's answering your
14 question, Bill. You directed him to Paragraph 2.

15 MR. HARRIS: Well, he can read it to
16 himself and then he can look up and tell me.

17 MR. PINKERTON: Okay.

18 Q. (By Mr. Harris) Can you do it that way?

19 A. Are we in a different country?

20 Q. No.

21 A. I suppose I have the freedom to read this if
22 I'd like to.

23 Q. Yeah, read it. But I don't think you have the
24 freedom to read it out in response to a question --

25 A. I don't think you have the right --

1 Q. -- I'm asking you to summarize.

2 A. And I don't think you have the right to insist
3 that I don't read from it.

4 Q. I'm doing my best to insist it.

5 A. I understand that, Mr. Harris.

6 Q. And the record will show that you can't answer
7 it without reading it.

8 MR. PINKERTON: The record won't show
9 that. It will show that he's choosing to focus on
10 Paragraph 2, what he said in the declaration. You had
11 referred to Paragraph 2.

12 MR. HARRIS: I did.

13 Q. (By Mr. Harris) I bet you've got it now,
14 haven't you?

15 A. Would you like me to continue?

16 Q. Continue what?

17 MR. PINKERTON: To answer the question.

18 A. To answer the question.

19 Q. (By Mr. Harris) Sure.

20 A. Okay.

21 Q. I'd rather you not read it, though.

22 A. Jesse Williamson and Bill Davis explained to me
23 that they intended --

24 Q. You're reading it, and I want the record to
25 show that.

1 A. -- to improve the existing WIMS process by
2 having flexography performed prior to the offset
3 lithography all in an one-line operation, all in one
4 pass. They indicated several methods that this could be
5 done, in one manner with a dedicated flexography
6 station, and another by an auxiliary add-on unit. And
7 Printing Research was identified, mentioned as a
8 potential partner for that.

9 Q. To do what?

10 A. To accomplish this process of putting down a
11 flexographic metallic first.

12 Q. Okay. I think I'm with you. And in doing
13 that, is there any specific reference that you recall
14 that they made just how Printing Research would do it
15 and then detail it off? That's all I need to know.

16 A. There was, yes.

17 Q. Huh?

18 A. Yes. You asked me a yes or no question. My
19 answer is yes.

20 Q. Yes what?

21 A. Yes to your question.

22 MR. HARRIS: Would you read back my
23 question.

24 Let the record show that the witness is
25 getting testy.

1 A. And duly noted for Mr. Harris.

2 MR. PINKERTON: I object to that
3 characterization of the witness. He's just answering
4 questions over here. And it's getting late.

5 MR. HARRIS: You mean reading answers.

6 MR. PINKERTON: No. He's answering
7 questions. It's getting late in the day. And he's
8 answered your question.

9 THE WITNESS: Do I have --

10 MR. PINKERTON: He answered your question,
11 then you didn't remember what the question was you asked
12 him. Now, that's not his problem, Bill.

13 MR. HARRIS: Well, that may be true. If
14 you read it back, maybe we can square it away.

15 (Requested text read)

16 THE WITNESS: Now can we go off the record
17 for a moment?

18 Q. (By Mr. Harris) Now, you're welcome to read it
19 and whether you read it or you don't read it, can you
20 tell me how specific a reference there is about how they
21 might do it?

22 MR. PINKERTON: Prior to you asking a
23 question, Bill, he asked if we can go off the record.

24 Would you still like to do that,
25 Mr. Brown?

1 THE WITNESS: Yes, I would.

2 MR. PINKERTON: Okay. Let's go off the
3 record for a second.

4 (Off-the-record discussion)

5 Q. (By Mr. Harris) Again, whether you read or
6 don't read or whatever you do, tell me, to the best of
7 your ability, how specific you can remember that these
8 gentlemen, Mr. Williamson and Mr. Davis, were in
9 describing the means they would use to practice the
10 process, particularly to the extent that Printing
11 Research might be involved. That's kind of a new
12 question.

13 MR. PINKERTON: That's a pretty long
14 question. I'm going to object to form. It's pretty
15 involved. Let the witness answer.

16 MR. HARRIS: Do you want it read back?

17 A. No. I believe I understand the question.
18 There were -- in the conversations I had, there were --
19 there was equipment being developed confidentially,
20 which was not disclosed -- was held from me, wasn't
21 shared with me, other than the statement that they
22 were developing something. And we talked about the
23 fact that several companies have a rack back system,
24 an aftermarket coating system. And that adapting that
25 and being able to move it upstream was the goal. That

1 would -- that would complete the process that we had
2 simulated and attested in Germany.

3 Q. (By Mr. Harris) Is it true they also
4 considered a dedicated flexography station?

5 A. Yes.

6 Q. And that they also indicated auxiliary add-on
7 in general, as well as getting a little more specific by
8 talking about some kinds of very generalized equipment?

9 A. Yes.

10 Q. I would like to -- oh, one other thing. About
11 the drying equipment, do I recall you saying that in
12 Germany, the drying equipment wasn't adequate at the
13 time you conducted the January test?

14 A. I don't recall saying that at all.

15 Q. Was it? Maybe I asked you why it couldn't be
16 run in somewhat of a different way and you said
17 something about the drying equipment. And if I'm
18 mistaken, I'll accept that. But wasn't something said
19 about the drying equipment? Whenever we read the
20 record, won't we find that?

21 A. I don't think you'll find anything about the
22 drying equipment. What you'll find is that I said the
23 sheet was run with either gold or silver being put down
24 only and being put down through the coating unit
25 chambered doctor plate with a flexo plate and that that

1 sheet, once dried, was put back through the press.

2 Q. Once dried. Did -- what did you have as -- to
3 dry it with? I suppose you just dried it outside of the
4 printing units, right? Was it just dried outside of the
5 printing units?

6 A. There are dryers, hot air and infrared dryers,
7 at the very end of the press --

8 Q. I see.

9 A. -- that accelerate oxidation, drying.

10 Q. So that's where the drying was done?

11 A. The majority.

12 Q. Did you -- in the discussions that were held
13 on or about August, per your memory, with Mr. Williamson
14 and Mr. Davis, did they touch on drying equipment in a
15 way that you could be of assistance to them or
16 contribute?

17 MR. PINKERTON: I'm going to object.

18 Q. (By Mr. Harris) Do you want me to rephrase it
19 real simple? Real simple is, did you in that discussion
20 contribute in some way to the consideration of drying
21 equipment?

22 A. No.

23 Q. Did they discuss drying equipment?

24 A. Yes.

25 Q. What did they say about it?

1 A. That they were choosing Printing Research's
2 drying equipment and that they were going to be testing
3 an inner deck high velocity air drying system for
4 Printing Research.

5 MR. HARRIS: I think we're within 15
6 minutes of through if you'll give me 10 minutes to talk
7 with my cohorts, well, I'll then add the 15 on and that
8 will be 25 and we'll still be short of your 5:15.

9 MR. PINKERTON: Okay.

10 (Recess taken)

11 Q. (By Mr. Harris) Let us tread on uneasy
12 waters.

13 MR. PINKERTON: Okay.

14 Q. (By Mr. Harris) Let us go to the famous
15 Paragraph 2.

16 MR. PINKERTON: We've been there before.

17 MR. HARRIS: That's what made them so
18 uneasy.

19 MR. PINKERTON: If we've been there, why
20 would we want to go back?

21 MR. HARRIS: We're going to quieten them
22 down.

23 MR. PINKERTON: We'll see.

24 Q. (By Mr. Harris) It's a pretty simple question
25 this time, I believe. In responding to my questions

1 about this Paragraph 2, you had said that -- let's put
2 it this way. They were developing some things, talking
3 about some things that I think you meant -- let me
4 editorialize -- some things you meant that you weren't
5 entirely told perhaps or that you felt you weren't. And
6 so you said they, and I put that in quotes, were
7 developing some things.

8 My question is simply, by "they," did you
9 mean Mr. Davis and Mr. Williamson, or did you mean
10 somebody or something else?

11 A. Are you talking about what I have previously
12 testified to --

13 Q. Yes.

14 A. -- or what's written here?

15 Q. No. I'm talking about what you've testified
16 to.

17 A. Yes. I would have been referring to -- in that
18 context referring to Bill Davis and Jesse Williamson.

19 Q. All right. And the other thing, as indicated
20 to you previously, we do want to develop the contacts
21 between you and attorneys or whoever and I would like to
22 do that now. And I'll be straightforward and quick. I
23 would advise you, of course, there is nothing wrong with
24 you talking to these attorneys, but on the other hand,
25 as you were told earlier, there is no privilege, you

1 know, about what is said.

2 Have you had discussions with the
3 attorneys today about any aspect of the deposition or
4 litigation?

5 A. No discussion other than, you're doing fine.

6 Q. Did you have anything for them? Was it, how am
7 I doing?

8 A. Early in my -- early in this deposition, I had
9 the concern of not having legal counsel here for myself.

10 Q. I recall that.

11 A. So that's the extent.

12 Q. You say the extent of it was, you're doing
13 fine?

14 A. Right.

15 Q. Did you ask, how am I doing?

16 A. How are things going.

17 Q. Have you talked to either -- well, I think
18 we've established you haven't talked to John Pinkerton
19 before today; isn't that true?

20 A. That's true.

21 Q. And as to Mr. Falk, have you talked to him
22 about preparations for this deposition or anything in
23 connection with this deposition?

24 A. No.

25 Q. Did he go back over the affidavit with you, or

1 did you go over it with him, either?

2 A. Neither. He -- I have not spoken or seen
3 Mr. Falk since this was signed.

4 MR. HARRIS: Pass.

5 MR. PINKERTON: We'll reserve our
6 questions. Thank you, Mr. Brown.

7 MR. PINKERTON: Let's see. Martin,
8 do you have our that copy?

9 MS. SWEENEY: Steve does.

10 MR. HARRIS: There's some dates on there.

11 MR. WILSON: Some dates on where?

12 MR. PINKERTON: On that original. Could
13 we have that.

14 MR. WILSON: Well, I wanted to keep it for
15 me. You guys have one at the office, right?

16 MR. PINKERTON: There's some dates on
17 some of these documents that I'd like to put on the
18 record that don't show up on the copies. If that's
19 something you want to do, we can do it. If you don't
20 want to do it, we don't have to do it at this time.
21 But this exhibit's in the record and some of these
22 dates that are in there don't show up. So I'd like to
23 do it.

24 MR. WILSON: Well, tell how they're dated
25 and where they're dated on the documents.

1 MR. PINKERTON: Just the ones you can't
2 read. Steve, I'm going to tear this up for now, if
3 that's okay.

4 MR. WILSON: As long as it's torn up in
5 the same order.

6 MR. PINKERTON: Yeah. Let's see where the
7 first one is here. Okay. This is the BASF -- Steve,
8 why don't you --

9 MR. WILSON: Let's just make sure it's all
10 the same that we're talking about.

11 MR. PINKERTON: This is Tab D,
12 September 6, 1994, 5:05 p.m.

13 MR. WILSON: He's reading a fax line. And
14 this is on the exhibit page that has a Bates mark
15 W001267. W001263, which in our deposition is Tab B to
16 Exhibit 2, the fax line date is 24 August, '91.

17 MR. PINKERTON: '94.

18 MR. WILSON: Oh, '94. Thank you. 24
19 August, '94.

20 MR. PINKERTON: Right.

21 MR. WILSON: Sorry.

22 MR. PINKERTON: And it's the same thing on
23 this document here.

24 MR. WILSON: And the page after that
25 WW001264 has the same fax line, August 24th, '94.

1 MR. PINKERTON: Right.

2 MR. WILSON: The next page, too?

3 MR. PINKERTON: That one's okay. I think
4 those are it.

5 MR. WILSON: I think all these others are
6 clear. I think the rest of the documents are legible in
7 the exhibit.

8 MR. PINKERTON: That's it. Okay.

(Off the record at 5:03 p.m.)

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